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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300, 301, 318, 319, and 353

[Docket No. 01–050–1]

Steam Treatment of Golden Nematode-Infested Farm Equipment, Construction Equipment, and Containers

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference into the Code of Federal Regulations, to allow containers, construction equipment without cabs, and farm equipment without cabs used in golden nematode-infested areas to be treated with steam heat before being moved interstate from any regulated area. This action provides an alternative to fumigation with methyl bromide for treating used containers, construction equipment without cabs, and farm equipment without cabs.

DATES: This rule will be effective on April 26, 2002 unless we receive written adverse comments or written notice of intent to submit adverse comments that are postmarked, delivered, or e-mailed by March 27, 2002. The incorporation by reference provided for by this rule is approved by the Director of the Federal Register as of April 26, 2002.

ADDRESSES: You may submit comments or notice of intent to submit adverse comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies (an original and three copies) to: Docket No. 01–050–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–050–1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 01–050–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Vedpal Malik, Agriculturist, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–6774.

SUPPLEMENTARY INFORMATION:

Background

The golden nematode (*Globodera rostochiensis*) is a plant pest that is highly destructive to potatoes and other solanaceous plants. The golden nematode has been determined to occur in the United States only in parts of New York.

The golden nematode regulations (contained in 7 CFR 301.85 through 301.85–10 and referred to below as the regulations) list two entire counties and portions of seven other counties in the State of New York as regulated areas and restrict the interstate movement of regulated articles from those areas. Such restrictions are necessary to prevent the artificial spread of the golden nematode to noninfested areas of the United States.

Regulated articles are identified in § 301.85(b). The list of regulated articles includes used mechanized cultivating equipment, used mechanized harvesting equipment, used mechanized soil-moving equipment, used crates, and other used farm products containers. Regulated articles must meet conditions specified in the regulations before they may be moved interstate from a regulated area. One of the conditions for movement is treatment.

The Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual), which is maintained by the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS), contains approved treatment schedules and is incorporated by reference into the Code of Federal Regulations at 7 CFR 300.1. Currently, fumigation with methyl bromide is the sole treatment available in the PPQ Treatment Manual to qualify used containers, construction equipment, and farm equipment for interstate movement from areas infested with golden nematodes.

Research conducted by APHIS[1] has demonstrated that steam heat effectively eliminates the golden nematode. Steam treatment takes less time than fumigation with methyl bromide—1 hour versus 24 to 48 hours—and commodities can be released to the owner immediately after steam treatment, whereas several hours of aeration are required after methyl bromide fumigation. Steam treatment is not harmful to the environment and is noncorrosive. No special precautions are necessary for the transportation of steam treatment equipment. In addition, steam treatments can be performed at farm or warehouse locations with less stringent safety requirements than those needed for methyl bromide fumigation (e.g., enclosures used for methyl bromide fumigation must be leakproof, and the location must be secured to prevent unauthorized entry and exposure to methyl bromide).

Therefore, we are amending the PPQ Treatment Manual to allow used containers, used construction equipment without cabs, and used farm equipment without cabs to be treated with steam heat before being moved interstate from any regulated area. (Pending further testing, this treatment was not recommended for equipment or vehicles with cabs due to possible damage to electrical or plastic components.) This action provides an alternative to fumigation with methyl

[1] Information concerning this research may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.**

bromide for treating used containers, construction equipment, and farm equipment. The treatment procedure we are adding to the PPQ Treatment Manual is described in the following paragraphs.

Treatment Procedure

Administer steam treatment in a tarpaulin or tent using steam generators. The recommended minimum air temperature for steam treatment varies according to the size of the enclosure in which the treatment is conducted. For enclosures 4,000 ft^3 or less, the recommended minimum air temperature is 40 °F, and for enclosures 4,000 to 6,000 ft^3, the recommended minimum air temperature is 60 °F.

Place the farm equipment or containers inside the tarpaulin or tent so that it faces the front of the enclosure, where the steam will be introduced. If a tarp (6 mil plastic) is used instead of a tent, pad sharp edges of the equipment or containers before covering with the tarp. Place temperature recording sensors on the equipment or containers to be treated.

When the treatment is being conducted in enclosures 4,000 ft^3 or less, use at least four temperature recording sensors in addition to the probe on the steam generator. Place probes in hard-to-treat cracks or crevices on the equipment or containers. Position probes in the following locations: (1) Front high—near the top of the front of the equipment or load; (2) center middle—midway from the top and bottom of the center of the equipment or load; (3) center bottom—bottom of the center of the equipment or load, but at least 3 inches above the floor if the equipment is flush with the floor; and (4) rear bottom—bottom of the rear of the equipment, but at least 3 inches above the floor if the equipment is flush with the floor.

When the treatment is being conducted in enclosures 4,000 to 6,000 ft^3, use at least eight temperature recording sensors in addition to the probe on the steam generator. Again, place probes in hard-to-treat cracks or crevices on the equipment or containers. Position probes in the following locations: (1) Front high—near the top of the left side of the front of the equipment or load; (2) front low—bottom of the right side of the front of the equipment or load, but at least 3 inches above the floor if the equipment is flush with the floor; (3) center high—near the top of the center of the equipment or load on the right side; (4) center middle—midway from the top and bottom of the center of the equipment or load; (5) center low—bottom of the center of the equipment or load on the left side, but at least 3 inches above the floor if the equipment is flush with the floor; (6) rear high—near the top of the rear of the equipment on the right side; (7) rear middle—midway from the top and bottom of the rear of the equipment; and (8) rear low—bottom of the rear of the equipment or load on the left side, but at least 3 inches above the floor if the equipment is flush with the floor.

Place the steam generator at the front of the enclosure. Close the tent or tarp and place sandsnakes (flexible weights) at the base to seal it. As an airtight seal is not essential for steam treatment; small pinholes are acceptable.

Steam heat the enclosure for 60 minutes after all probes reach a minimum of 140 °F (60 °C). The maximum temperature in the enclosure should not exceed 160 °F (71 °C). Throughout the treatment, record the temperatures at least once every 2 minutes.

Miscellaneous

The scientific name for golden nematode has been changed from *Heterodera rostochiensis* to *Globodera rostochiensis.* Therefore, we are amending §§ 301.85(a) and 301.85–1 to reflect that change.

We are also revising the definition for the term *treatment manual* in § 301.85–1 so that it refers to the PPQ Treatment Manual rather than the ''Manual of Administratively Authorized Procedures to be Used Under the Golden Nematode Quarantine'' and the ''Fumigation Procedures Manual,'' which are no longer in use. Revising the definition of *treatment manual* will eliminate footnote 1, so we are also redesignating the subsequent footnotes in the subpart.

The definitions in § 301.85–1 are no longer assigned paragraph designations and are simply listed in alphabetical order. We are, therefore, amending § 301.85(b) to update a reference to the definition of *regulated article.*

Finally, we are revising part 300 so that all of the materials incorporated by reference are assigned specific section designations. Accordingly, we are also updating citations to part 300 found elsewhere in title 7.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, on April 26, 2002, unless we receive written adverse comments or written notice of intent to submit adverse comments that are postmarked, delivered, or e-mailed by March 27, 2002.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments that are postmarked, delivered, or e-mailed within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This rule, which allows containers, construction equipment without cabs, and farm equipment without cabs used in golden nematode-infested areas to be treated with steam heat before being moved interstate from any regulated area, provides an alternative to fumigation with methyl bromide.

It is expected that the cost of steam treatment will compare favorably to the cost of methyl bromide fumigation. Treatment costs will continue to be borne by APHIS. A steam generator and related equipment, such as temperature sensors and plastic tarps, costs approximately $20,000. After the initial investment in equipment, most of the cost of treatment is due to personnel costs. It takes one 8-hour day for a Plant Protection and Quarantine (PPQ) officer and a technician to steam treat farm equipment, including the time required to set up and tear down the treatment site.

In contrast, there are higher equipment and personnel costs associated with methyl bromide treatment. The cost of methyl bromide is currently $3.24 per pound. For a 24-hour treatment, 15 lbs of methyl bromide per 1,000 ft^3 is needed, while 7.5 lbs of methyl bromide per 1,000 ft^3 are needed for a 48-hour treatment. PPQ officers must be certified to handle

pesticides and must use a self-contained breathing apparatus during the treatment. A self-contained breathing apparatus costs $1,500 plus the cost of periodic maintenance. Air tanks cost $600–$700 and typically last about 3 years.

Personnel costs also would be higher for methyl bromide treatment than for steam treatment. Methyl bromide treatment takes from 24 to 48 hours. If the methyl bromide treatment site is secure, it is not necessary to have a PPQ officer on site during the entire treatment period. However, if the site is not secure, it is not advisable to leave the treatment site unattended.

Table 1 shows costs associated with each treatment option. These calculations assume that one GS–11 PPQ officer and one GS–7 technician would have to stay on site twice as long for methyl bromide treatments as for steam treatments. As noted previously, methyl bromide currently costs $3.24 per pound; these calculations assume that 30 lbs are needed per treatment, which is enough to treat 2,000 ft^3. We estimate that, over the course of 600 treatments, the use of steam treatment rather than methyl bromide would result in savings of $259,920. This is considerably more than the initial cost of the equipment needed for the steam treatment.

TABLE 1.—MARGINAL COST OF STEAM TREATMENT VS. METHYL BROMIDE TREATMENT

	Steam treatment	Methyl bromide
Labor GS–11, step 5	$200 ($25/hr × 8 hrs)	$400 ($25/hr × 16 hrs)
Labor GS–7, step 5	$136 ($17/hr × 8 hrs)	$272 ($17/hr × 16 hrs)
Chemicals	NA	$97.20 ($3.24 × 30 lbs)
Sub-total	$336	$769.20
Treatments per year	600	600
Total cost	$201,600	$461,520

Over the past 4 years, an average of 618 pieces of farm equipment per year have been treated. It is expected that, with this rule, most of these treatments will be steam treatments. However, there may still be some cases in which methyl bromide treatment is the preferred method of treatment.

While there are higher initial costs for steam treatment, the marginal cost for each treatment would be lower. Because steam treatment has lower marginal costs, in the long run it will be more economical to use steam treatment than methyl bromide fumigation.

Potato farms are classified as small businesses if they have less than $750,000 in annual receipts. USDA's National Agricultural Statistics Service (NASS) does not publish data by farm size for New York potato farms. However, it is likely that most of the farms affected by this rule would qualify as small businesses, as defined by the U.S. Small Business Administration (SBA).

This rule provides an alternative treatment for farm equipment, construction equipment, and containers used in golden nematode-infested areas. Farmers do not pay for the treatment; the costs are borne by APHIS. This is to encourage farmers to treat equipment before selling or moving it. Farm equipment is often treated when a farm is sold or going out of business, when farmers are unlikely to have the funds available to pay for treatment. Because the cost is not borne by the farmer, this rule will not have an adverse economic impact on these small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Incorporation by reference, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Logs, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

7 CFR Part 353

Exports, Incorporation by reference, Plant diseases and pests, Reporting and recordkeeping requirements.

Accordingly, we are amending 7 CFR chapter III as follows:

1. Part 300 is revised to read as follows:

PART 300–INCORPORATION BY REFERENCE

Subpart—Materials Incorporated by Reference

Sec.
300.1 Plant Protection and Quarantine Treatment Manual.
300.2 Dry Kiln Operator's Manual.
300.3 Reference Manual A.
300.4 Reference Manual B.

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

§ 300.1 Plant Protection and Quarantine Treatment Manual.

(a) In accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the Director of the Office of the Federal Register has approved for incorporation by reference

in 7 CFR chapter III the Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and all revisions through May 2000; and:

(1) Treatment T101–n–2 and T102–b, and Table 5–2–5, revised July 2001;

(2) Treatment T102–e, revised July 2001; and

(3) Treatment T406–d, dated January 2002.

(b) The treatments specified in the Plant Protection and Quarantine Treatment Manual and its revisions are required to authorize the movement of certain articles regulated by domestic quarantines (7 CFR parts 301 and 318) and foreign quarantines (7 CFR part 319).

(c) *Availability.* Copies of the Plant Protection and Quarantine Treatment Manual:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC; or

(2) May be obtained by writing or calling the Animal and Plant Health Inspection Service, Documents Management Branch, Printing Distribution and Mail Section, 4700 River Road Unit 1, Riverdale, MD 20737–1229, (301) 734–5524; or

(3) May be obtained from field offices of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine. Addresses of these offices may be found in local telephone directories.

§ 300.2 Dry Kiln Operator's Manual.

(a) The Dry Kiln Operator's Manual, which was published in August 1991 as Agriculture Handbook No. 188 by the United States Department of Agriculture, Forest Service, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(b) The kiln drying schedules specified in the Dry Kiln Operator's Manual provide a method by which certain articles regulated by ''Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles'' (7 CFR 319.40–1 through 319.40–11) may be imported into the United States.

(c) *Availability.* Copies of the Dry Kiln Operator's Manual:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC; or

(2) Are for sale as ISBN 0–16–035819–1 by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402–9328.

§ 300.3 Reference Manual A.

(a) The Reference Manual for Administration, Procedures, and Policies of the National Seed Health System, which was published on February 25, 2000, by the National Seed Health System (NSHS), has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(b) *Availability.* Copies of Reference Manual A:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC, and the APHIS Library, U.S. Department of Agriculture, 4700 River Road, Riverdale, MD; or

(2) May be obtained by writing to Phytosanitary Issues Management, Operational Support, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; or

(3) May be viewed on the APHIS Web site at *http://www.aphis.usda.gov/ppq/pim/accreditation.*

§ 300.4 Reference Manual B.

(a) The Reference Manual for Seed Health Testing and Phytosanitary Field Inspection Methods, which was published on February 27, 2001, by the National Seed Health System (NSHS), has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(b) *Availability.* Copies of Reference Manual B:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC, and the APHIS Library, U.S. Department of Agriculture, 4700 River Road, Riverdale, MD; or

(2) May be obtained by writing to Phytosanitary Issues Management, Operational Support, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; or

(3) May be viewed on the APHIS Web site at *http://www.aphis.usda.gov/ppq/pim/accreditation.*

PART 301—DOMESTIC QUARANTINE NOTICES

2. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

3. In § 301.45–1, footnote 3 is revised to read as follows:

§ 301.45–1 Definitions.

* * * * *

[3] The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

4. In § 301.64–10, paragraphs (a) and (f) are amended by revising the first sentence after the paragraph heading to read as follows:

§ 301.64–10 Treatments.

* * * * *

(a) * * * Cold treatment in accordance with the PPQ Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

(f) * * * Cold treatment in accordance with the PPQ Treatment Manual, which is incorporated by reference at § 300.1 of this chapter, and in accordance with the following schedule:

* * * * *

5. In § 301.78–10, the introductory paragraph is revised to read as follows:

§ 301.78–10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy Mediterranean fruit fly are authorized for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. The following treatments may be used for the regulated articles indicated:

* * * * *

6. In § 301.81–4, paragraph (b) is revised to read as follows:

§ 301.81–4 Interstate movement of regulated articles from quarantined areas.

* * * * *

(b) Inspectors are authorized to stop any person or means of conveyance moving in interstate commerce they have probable cause to believe is moving regulated articles, and to inspect the articles being moved and the means of conveyance. Articles found to be infested by an inspector, and articles not in compliance with the regulations in this subpart, may be seized, quarantined, treated, subjected to other remedial measures, destroyed, or otherwise disposed of. Any treatments will be in accordance with the methods and procedures prescribed in the Appendix to this subpart (III. *Regulatory Procedures*), or in accordance with the methods and procedures prescribed in the Plant Protection and Quarantine

Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

§ 301.85 [Amended]

7. In § 301.85, paragraph (a) is amended by removing the words ''(*Heterodera rostochiensis*)'' and adding the words ''(*Globodera rostochiensis*)'' in their place and in paragraph (b), the introductory text is amended by removing the citation ''§ 301.85–1(q)'' and adding the citation ''§ 301.85–1'' in its place.

8. Section 301.85–1 is amended as follows:

a. In the definition of *Golden nematode*, by removing the words ''(*Heterodera rostochiensis*)'' and adding the words ''(*Globodera rostochiensis*)'' in their place.

b. By revising the definition of *treatment manual* to read as follows.

§ 301.85–1 Definitions.

* * * * *

Treatment manual. The provisions currently contained in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

§ 301.85–2b [Amended]

9. In § 301.85–2b, footnote 2 and its reference in the section heading are redesignated as footnote 1.

§ 301.85–3 [Amended]

10. Section 301.85–3 is amended as follows:

a. Footnote 3 and its reference in the section heading are redesignated as footnote 2.

b. In paragraph (b), footnotes 4 and 5 and their references in the text are redesignated as footnotes 3 and 4, respectively.

11. In § 301.93–10, the introductory paragraph is revised to read as follows:

§ 301.93–10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy the Oriental fruit fly are approved for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. The following treatments can be used for bell pepper, citrus and grape, tomato, premises, and soil:

* * * * *

12. In § 301.97–10, the introductory paragraph is revised to read as follows:

§ 301.97–10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy the melon fruit fly are authorized for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. The following treatments also may be used for the regulated articles indicated:

* * * * *

13. In § 301.98–10, the introductory paragraph is revised to read as follows:

§ 301.98–10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy the West Indian fruit fly are authorized for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. The following treatments also may be used for the regulated articles indicated:

* * * * *

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

14. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7714, 7731, 7754, and 7756; 7 CFR 2.22, 2.80, and 371.3.

15. Section 318.13–11 is revised to read as follows:

§ 318.13–11 Disinfection of means of conveyance.

If an inspector, through an inspection pursuant to this subpart, finds that a means of conveyance is infested with or contains plant pests, and the inspector orders disinfection of the means of conveyance, then the person in charge or in possession of the means of conveyance shall disinfect the means of conveyance and its cargo in accordance with an approved method contained in the Plant Protection and Quarantine Treatment Manual under the supervision of an inspector and in a manner prescribed by the inspector, prior to any movement of the means of conveyance or its cargo. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

16. In § 318.58–4, paragraph (b) is revised to read as follows:

§ 318.58–4 Issuance of certificates or limited permits.

* * * * *

(b) *Certification on basis of treatment.* Fruits and vegetables designated in § 318.58–2(b) may be certified after undergoing an approved treatment contained in the Plant Protection and Quarantine Treatment Manual under the supervision of an inspector and if the articles are handled after treatment in accordance with all conditions that the inspector requires. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. Treatments shall be applied at the expense of the shipper, owner, or person in charge of the articles. The Department of Agriculture or its inspector will not be responsible for loss or damage resulting from any treatment prescribed or supervised under this subpart.

* * * * *

17. Section 318.58–11 is revised to read as follows:

§ 318.58–11 Disinfection of means of conveyance.

If an inspector, through an inspection pursuant to this subpart, finds that a means of conveyance is infested with or contains any plant pest, and the inspector orders disinfection of the means of conveyance, then the person in charge or in possession of the means of conveyance shall disinfect the means of conveyance and its cargo, in accordance with an approved method contained in the Plant Protection and Quarantine Treatment Manual under the supervision of an inspector and in a manner prescribed by the inspector, prior to any movement of the means of conveyance or its cargo. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

PART 319—FOREIGN QUARANTINE NOTICES

18. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

19. In § 319.37–4, footnote 6 is revised to read as follows:

§ 319.37–4 Inspection, treatment, and phytosanitary certificates of inspection.

* * * * *

[6] The Plant Protection and Quarantine Manual is incorporated by reference at § 300.1 of this chapter.

§ 319.40–7 [Amended]

20. In § 319.40–7, paragraph (d)(1)(i) is amended by removing the citation ''§ 300.1'' and adding the citation ''§ 300.2'' in its place.

21. In § 319.56–2h, paragraph (b) is revised to read as follows:

§ 319.56–2h Regulations governing the entry of grapes from Australia.

* * * * *

(b) *Authorized treatments.* Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

22. In § 319.56–2i, paragraph (a) is revised to read as follows:

§ 319.56–2i Administrative instructions prescribing treatments for mangoes from Central America, South America, and the West Indies.

(a) *Authorized treatments.* Treatment with an authorized treatment listed in the Plant Protection and Quarantine Treatment Manual will meet the treatment requirements imposed under § 319.56–2 as a condition for the importation into the United States of mangoes from Central America, South America, and the West Indies. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

* * * * *

23. In § 319.56–2p, paragraph (f) is revised to read as follows:

§ 319.56–2p Administrative instructions prescribing treatment and relieving restrictions regarding importation of okra from Mexico, the West Indies, and certain countries in South America.

* * * * *

(f) *Treatment of okra for pests other than pink bollworm.* If, upon examination of okra imported in accordance with paragraphs (c), (d), or (e) of this section, an inspector at the port of arrival finds injurious insects, other than the pink bollworm, that do not exist in the United States or are not widespread in the United States, the okra will remain eligible for entry into the United States only if it is treated for the injurious insects in the physical presence of an inspector in accordance with the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. If the treatment authorized by the Plant Protection and Quarantine Treatment Manual is not available, or if no authorized treatment exists, the okra may not be entered into the United States.

24. In § 319.56–2r, paragraph (g)(2) is revised to read as follows:

§ 319.56–2r Administrative instructions governing the entry of apples and pears from certain countries in Europe.

* * * * *

(g) * * *

(2) Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

25. In § 319.56–2s, paragraph (f)(2) is revised to read as follows:

§ 319.56–2s Administrative instructions governing the entry of apricots, nectarines, peaches, plumcot, and plums from Chile.

* * * * *

(f) * * *

(2) Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

PART 353–EXPORT CERTIFICATION

26. The authority citation for part 353 continues to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7718, 7751, and 7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 353.1 [Amended]

27. Section 353.1 is amended as follows:

a. In the definition of *Reference Manual A*, by removing the citation ''§ 300.1'' and adding the citation ''§ 300.3'' in its place.

b. In the definition of *Reference Manual B*, by removing the citation ''§ 300.1'' and adding the citation ''§ 300.4'' in its place.

§ 353.9 [Amended]

28. Section 353.9 is amended as follows:

a. In paragraph (b)(2), the introductory text, by removing the citation ''§ 300.1'' and adding the citation ''§ 300.4'' in its place.

b. In paragraph (b)(3), by removing the citation ''§ 300.1'' and adding the citation ''§ 300.3'' in its place.

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–4384 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 145 and 147

[Docket No. 00–075–2]

National Poultry Improvement Plan and Auxiliary Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. These changes, which were voted on and approved by the voting delegates at the Plan's 2000 Millennial Plan Conference, will keep the provisions of the Plan current with developments in the poultry industry and provide for the use of new sampling and testing procedures.

EFFECTIVE DATE: March 27, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1498 Klondike Road, Suite 200, Conyers, GA 30094–5104; (770) 922–3496.

SUPPLEMENTARY INFORMATION:

Background

The National Poultry Improvement Plan (NPIP, also referred to below as ''the Plan'') is a cooperative Federal-State-industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control egg-transmitted, hatchery-disseminated poultry diseases. Participation in all plan programs is voluntary, but flocks, hatcheries, and dealers must qualify as ''U.S. Pullorum-Typhoid Clean'' before participating in any other Plan program. Also, the regulations in 9 CFR part 82, subpart C, which provide for certain testing, restrictions on movement, and other restrictions on certain chickens, eggs, and other articles due to the presence of *Salmonella enteritidis,* prohibit hatching eggs or newly hatched chicks from egg-type chicken breeding flocks from being moved interstate unless they are classified ''U.S. S. Enteritidis Monitored'' under the Plan or have met equivalent requirements for *S. enteritidis* control, in accordance with 9 CFR 145.23(d), under official supervision.

The Plan identifies States, flocks, hatcheries, and dealers that meet certain disease control standards specified in the Plan's various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR parts 145 and 147 (referred to below as the regulations) contain the provisions of the Plan. The Animal and Plant Health Inspection Service (APHIS or the Service) of the U.S. Department of Agriculture (USDA or the Department) amends these provisions from time to time to incorporate new scientific information and technologies within the Plan.

On July 20, 2001, we published in the **Federal Register** (66 FR 37919–37932, Docket No. 00–075–1) a proposal to amend the regulations by (1) providing new or modified sampling, testing, and cleaning/disinfection procedures for Plan participants and participating flocks, (2) updating some of the Plan's administrative provisions, and (3) making several nonsubstantive editorial changes to improve clarity and correct erroneous citations to several sections within the regulations.

We solicited comments concerning our proposal for 60 days ending September 18, 2001. We received one comment by that date. The comment was from a private veterinarian who requested that we clarify what we meant by the phrase ''does not spread'' in the proposed revision to § 145.23(d)(1)(vi)(B). (That paragraph begins with the words ''If an injectable bacterin or live vaccine that does not spread is used * * *.'') The commenter was concerned that our use of that phrase meant that we intended to require the use of live vaccines that do not ever shed or that are not transmitted between birds, and stated that it was unlikely that any live vaccine could meet that standard, thus precluding the use of an otherwise valuable food safety vaccine.

As we explained in the proposed rule, the regulations in § 145.23(d)(1)(vi) regarding the use of a federally licensed Salmonella enteritidis bacterin had not differentiated between the use of vaccines or bacterins that may spread to other birds and those that do not, which is why we proposed to introduce the term ''does not spread'' into that paragraph. In both the proposed rule and this final rule, the text of § 145.23(d)(1)(vi)(B) does not require the use of live vaccines that do not spread, nor does it prohibit the use of live vaccines that spread. Rather, that paragraph simply offers a ''testing after vaccination'' option that may be utilized if an injectable bacterin or live vaccine that does not spread is used to vaccinate a flock.

We are making two minor technical changes in this final rule that were not discussed in the proposed rule. Specifically, in the proposed rule, we proposed to redesignate paragraph (b) of § 147.12 as paragraph (c), but inadvertently failed to update two internal references within that paragraph. Therefore, in this final rule we are amending redesignated § 147.12(c)(1) so the introductory text of that paragraph refers to paragraphs (c)(1)(i) and (c)(1)(ii) rather than (b)(1)(i) and (b)(1)(ii); similarly, we are amending redesignated § 147.12(c)(2) so the introductory text of that paragraph refers to paragraph (c)(2)(i) rather than (b)(2)(i).

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The changes contained in this document are based on the recommendations of representatives of member States, hatcheries, dealers, flockowners, and breeders who took part in the Plan's 2000 National Plan Conference. This rule amends the Plan and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. The changes contained in this rule, which were voted on and approved by the voting delegates at the Plan's 2000 National Plan Conference, will keep the provisions of the plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

The plan serves as a ''seal of approval'' for eggs and poultry producers in the sense that tests and procedures recommended by the Plan are considered optimal for the industry. In all cases, the changes in this document have been generated by the industry itself with the goal of reducing disease risk and increasing product marketability. Because participation in the Plan is voluntary, individuals are likely to remain in the program as long as the costs of implementing the program are lower than the added benefits they receive from the program.

The changes contained in this document generally either update testing procedures and sanitation guidelines or amend the Plan's administrative operations, with the aim of better safeguarding the health of the Nation's poultry industry. The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. We do not expect that the changes in this document will result in significant economic effects on small entities.

The Small Business Administration defines size standards for industries using the North American Industry Classification System (NAICS). Under this system, a firm classified within ''Chicken Egg Production'' (NAICS code 112310) is considered small if its annual receipts are $9 million or less. For firms classified within ''Broilers and Other Meat Type Chicken Production'' (NAICS code 112320), the small-entity criterion is annual receipts of $750,000 or less.

The egg and poultry industries are highly integrated vertically, with most production owned or under contract to large-scale processing and marketing firms.[1] For example, broilers for Tyson Foods, the world's largest producer, came in 1999 from 6,060 farms (98 percent under contract), and its eggs came from breeder flocks on 1,388 farms.[2]

In 1997, an average of 303,604,000 egg-producing layers produced 77,532 million eggs.[3] The number of egg-producing farms and their size distribution is not known, but it is reasonable to assume that some of them may be small entities, operating either independently or under contract.

Also in 1997, there were 13,458 farms that sold layers, pullets, and pullet chicks, and 23,937 farms that sold broilers and other meat-type chickens.[4] Regarding the latter, a farm would need to produce about 275,000 broilers a year in order to reach annual sales of at least $500,000, according to Census of Agriculture and other National Agricultural Statistics Service (NASS)

[1] The broiler industry, in particular, is heavily concentrated. Tyson Foods had weekly sales of ready-to-cook chicken that averaged 154.3 million pounds in 1999. The 10 largest broiler companies accounted for 429.6 million pounds per week in 1999, approximately half of the Nation's production (WATT Poultry USA, January 2000).

[2] WATT Poultry USA, January 2000.

[3] ''Chickens and Eggs, Final Estimates 1994–97,'' USDA/NASS, December 1998.

[4] 1997 Census of Agriculture.

data.[5] By this measure, about one-half of broiler farms can be considered small.[6]

Clearly, some of the poultry and egg-producing farms that may be affected by this rule are small. However, the procedural and administrative changes in this rule are not expected to have a significant economic impact on any entities, either large or small.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Parts 145 and 147

Animal diseases, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR parts 145 and 147 as follows:

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN

1. The authority citation for part 145 continues to read as follows:

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.4.

2. In § 145.1, a definition of *public exhibition* is added, in alphabetical order, to read as follows:

§ 145.1 Definitions.

* * * * *

Public exhibition. A public show of poultry.

* * * * *

3. In § 145.2, a new paragraph (e) is added to read as follows:

§ 145.2 Administration.

* * * * *

(e) An authorized laboratory of the National Poultry Improvement Plan will follow the laboratory protocols outlined in part 147 of this chapter when determining the status of a participating flock with respect to an official Plan classification.

* * * * *

4. Section 145.6 is amended as follows:

a. By revising paragraph (a).

b. In paragraph (b), by removing the word ''which'' and adding the word ''that'' in its place.

c. In paragraph (c), by removing the word ''shall'' and adding the word ''should'' in its place.

d. In paragraph (d), in both the first and second sentences, by removing the word ''shall'' and adding the word ''should'' in its place.

§ 145.6 Specific provisions for participating hatcheries.

(a) Hatcheries must be kept in sanitary condition, acceptable to the Official State Agency. The procedures outlined in §§ 147.22 through 147.25 of this chapter will be considered as a guide in determining compliance with this provision. The minimum requirements with respect to sanitation include the following:

(1) Egg room walls, ceilings, floors, air filters, drains, and humidifiers should be cleaned and disinfected at least two times per week. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(2) Incubator room walls, ceilings, floors, doors, fan grills, vents, and ducts should be cleaned and disinfected after each set or transfer. Incubator rooms should not be used for storage. Plenums should be cleaned at least weekly. Egg trays and buggies should be cleaned and disinfected after each transfer. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(3) Hatcher walls, ceilings, floors, doors, fans, vents, and ducts should be cleaned and disinfected after each hatch. Hatcher rooms should be cleaned and disinfected after each hatch and should not be used for storage. Plenums should be cleaned after each hatch. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(4) Chick/poult processing equipment and rooms should be thoroughly cleaned and disinfected after each hatch. Chick/poult boxes should be cleaned and disinfected before being reused. Vaccination equipment should be cleaned and disinfected after each use. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(5) Hatchery residue, such as chick/poult down, eggshells, infertile eggs, and dead germs, should be disposed of promptly and in a manner satisfactory to the Official State Agency.

(6) The entire hatchery should be kept in a neat, orderly condition and cleaned and disinfected after each hatch.

(7) Effective insect and rodent control programs should be implemented.

* * * * *

§ 145.10 [Amended]

5. In § 145.10, paragraphs (a) and (l) are removed and reserved and paragraph (m) is amended by adding the words ''§ 145.23(d) and'' immediately after the word ''See''.

§ 145.13 [Amended]

6. In § 145.13, the introductory text of the section is amended as follows:

a. In the first sentence, by adding the words ''in writing'' immediately after the words ''are notified''.

b. In the sixth sentence, by removing the words ''§§ 50.21 through 50.28–14 and §§ 50.30 through 50.33 of''.

c. In the seventh sentence, by removing the citation ''7 CFR 50.2(e), (g), (h), and (l)'' and adding the citation ''7 CFR 50.10'' in its place.

7. Section 145.14 is amended as follows:

a. In the introductory text of the section, by revising the first sentence.

b. In paragraph (a)(1), footnote 1, by removing the words ''Veterinary Biologics, 4700 River Road, Unit 148, Riverdale, Maryland 20737–1237'' and adding the words ''Center for Veterinary Biologics, 510 South 17th Street, Suite 104, Ames, IA 50010–8197'' in their place.

§ 145.14 Blood testing.

Poultry must be more than 4 months of age when blood tested for an official classification: *Provided*, That turkey candidates under subpart D of this part may be blood tested at more than 12 weeks of age; game bird candidates under subpart E of this part may be blood tested when more than 4 months of age or upon reaching sexual maturity, whichever comes first; and ostrich, emu, rhea, and cassowary candidates under subpart F of this part may be blood

[5] In 1997, the average liveweight equivalent price of broilers was $0.377 per pound, and the average weight was 4,835 pounds. Thus, the average price received per broiler was $1.82.

[6] The 1997 Census of Agriculture indicates that 52 percent of broiler-producing farms sold at least 200,000 broilers.

tested when more than 12 months of age. * * *

* * * * *

8. In § 145.23, paragraph (d) is amended as follows:

a. In paragraph (d), by revising the introductory text.

b. In paragraph (d)(1)(i), by removing the word ''Monitored'' and adding the word ''Clean'' in its place.

c. By revising paragraphs (d)(1)(iv) and (d)(1)(vi).

§ 145.23 Terminology and classification; flocks and products.

* * * * *

(d) *U.S. S. Enteritidis Clean.* This classification is intended for egg-type breeders wishing to assure their customers that the hatching eggs and chicks produced are certified free of *Salmonella enteritidis.*

(1) * * *

* * * * *

(iv) The flock is maintained in compliance with §§ 147.21, 147.24(a), and 147.26 of this chapter. Rodents and other pests should be effectively controlled;

* * * * *

(vi) If a *Salmonella* vaccine is used that causes positive reactions with pullorum-typhoid antigen, one of the following options must be utilized:

(A) Administer the vaccine after the pullorum-typhoid testing is done as described in paragraph (d)(1)(vii) of this section.

(B) If an injectable bacterin or live vaccine that does not spread is used, keep a sample of 350 birds unvaccinated and banded for identification until the flock reaches at least 4 months of age. Following negative serological and bacteriological examinations as described in paragraph (d)(1)(vii) of this section, vaccinate the banded, non-vaccinated birds.

* * * * *

§ 145.24 [Amended]

9. In § 145.24, paragraph (a)(2), at the end of the last sentence, the words ''in accordance with rules of practice adopted by the Administrator'' are added immediately after the word ''hearing''.

10. Section 145.33 is amended as follows:

a. By revising paragraph (c)(2).

b. In paragraph (h), the introductory text, by removing the word ''primary''.

c. By revising paragraph (h)(1)(i).

d. In paragraph (h)(1)(iv), by adding the words ''or under the supervision of'' immediately after the word ''by''.

e. By revising paragraph (h)(1)(vi).

f. In paragraph (h)(3), the first sentence, by removing the word ''in'' immediately before the words ''paragraph (h)(1)(iv)'' and by adding the words ''and/or 500 cloacal swabs collected in accordance with § 147.12(a)(2) of this chapter'' immediately before the word ''must''.

§ 145.33 Terminology and classification; flocks and products.

* * * * *

(c) * * *

(2) A participant handling U.S. M. Gallisepticum Clean products must keep these products separate from other products through the use of separate hatchers and incubators, separate hatch days, and proper hatchery sanitation and biosecurity (see §§ 147.22, 147.23, and 147.24) in a manner satisfactory to the Official State Agency: *Provided*, That U.S. M. Gallisepticum Clean chicks from primary breeding flocks must be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (c)(1)(i) of this section are set.

* * * * *

(h) * * *

(1) * * *

(i) The flock originated from a U.S. S. Enteritidis Clean flock, or one of the following samples has been examined bacteriologically for *S. enteritidis* at an authorized laboratory and any group D *Salmonella* samples have been serotyped:

(A) A 25-gram sample of meconium from the chicks in the flock collected and cultured as described in § 147.12(a)(5) of this chapter; or

(B) A sample of chick papers collected and cultured as described in § 147.12(c) of this chapter; or

(C) A sample of 10 chicks that died within 7 days after hatching.

* * * * *

(vi) Hatching eggs produced by the flock are collected as quickly as possible and are handled as described in § 147.22 of this chapter.

§ 145.34 [Amended]

11. In § 145.34, paragraphs (a)(2) and (b)(2) are each amended by adding the words ''in accordance with rules of practice adopted by the Administrator'' immediately after the word ''hearing''.

§ 145.44 [Amended]

12. In § 145.44, paragraphs (a)(2), (b)(2), and (c)(2) are each amended by adding the words ''in accordance with rules of practice adopted by the Administrator'' immediately after the word ''hearing''.

§ 145.53 [Amended]

13. In § 145.53, paragraph (a) is removed and reserved.

§ 145.54 [Amended]

14. In § 145.54, paragraph (a)(2) is amended by adding the words ''in accordance with rules of practice adopted by the Administrator'' immediately after the word ''hearing''.

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

15. The authority citation for part 147 continues to read as follows:

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.4.

§ 147.5 [Amended]

16. Section 147.5 is amended as follows:

a. In paragraph (c), by removing the numbers ''1:20'' and adding the numbers ''1:40'' in their place.

b. In paragraph (d), the introductory text, by removing the numbers ''1:20'' and adding the numbers ''1:40'' in their place.

c. In paragraph (d)(2), by removing the words ''10 microliters (0.01 cc.)'' and adding the words ''5 microliters (0.005 cc.)'' in their place.

§ 147.7 [Amended]

17. In § 147.7, paragraph (e)(2)(ii)(B) is amended by removing the third and fourth sentences.

18. In § 147.11, paragraph (a) is revised to read as follows:

§ 147.11 Laboratory procedure recommended for the bacteriological examination of salmonella.

(a) *For egg- and meat-type chickens, waterfowl, exhibition poultry, and game birds.* All reactors to the Pullorum-Typhoid tests, up to 25 birds, and birds from *Salmonella enteritidis* (SE) positive environments should be cultured in accordance with both the direct (paragraph (a)(1)) and selective enrichment (paragraph (a)(2)) procedures described in this section. Careful aseptic technique should be used when collecting all tissue samples.

(1) Direct culture (refer to illustration 1). Grossly normal or diseased liver, heart, pericardial sac, spleen, lung, kidney, peritoneum, gallbladder, oviduct, misshapen ova or testes, inflamed or unabsorbed yolk sac, and other visibly pathological tissues where purulent, necrotic, or proliferative lesions are seen (including cysts, abscesses, hypopyon, and inflamed serosal surfaces) should be sampled for direct culture using either flamed wire loops or sterile swabs. Since some strains may not dependably survive and grow in certain selective media, inoculate non-selective plates (such as

blood or nutrient agar) and selective plates (such as MacConkey [MAC] and brilliant green novobiocin [BGN] for pullorum-typhoid and MAC, BGN, and xylose-lysine-tergitol 4 [XLT 4] for SE). After inoculating the plates, pool the swabs from the various organs into a tube of non-selective broth (such as nutrient or brain-heart infusion). Refer to illustration 1 for recommended bacteriological recovery and identification procedures.[7] Proceed immediately with collection of organs and tissues for selective enrichment culture.

(2) Selective enrichment culture (refer to illustration 1). Collect and culture organ samples separately from intestinal samples, with intestinal tissues collected last to prevent cross-contamination. Samples from the following organs or sites should be collected for culture in selective enrichment broth:

(i) Heart (apex, pericardial sac, and contents if present);

(ii) Liver (portions exhibiting lesions or, in grossly normal organs, the drained gallbladder and adjacent liver tissues);

(iii) Ovary-Testes (entire inactive ovary or testes, but if ovary is active, include any atypical ova);

(iv) Oviduct (if active, include any debris and dehydrated ova);

(v) Kidneys and spleen; and

(vi) Other visibly pathological sites where purulent, necrotic, or proliferative lesions are seen.

(3) From each bird, aseptically collect 10 to 15 grams of each organ or site listed in paragraph (a)(2) of this section. Mince, grind, or blend and place in a sterile plastic bag. All the organs or sites listed in paragraph (a)(2) of this section from the same bird may be pooled into one bag. Do not pool samples from more than one bird. Add sufficient tetrathionate enrichment broth to give a 1:10 (sample to enrichment) ratio. Follow the procedure outlined in illustration 1 for the isolation and identification of *Salmonella.*

(4) From each bird, aseptically collect 10 to 15 grams of each of the following parts of the digestive tract: Crop wall, duodenum, jejunum (including remnant of yolk sac), both ceca, cecal tonsils, and rectum-cloaca. Mince, grind, or blend tissues and pool them into a sterile plastic bag. Do not pool tissues from different birds into the same sample. Add sufficient tetrathionate enrichment broth to give a 1:10 (sample to enrichment) ratio. Follow the procedure outlined in illustration 1 for the isolation and identification of *Salmonella.*

(5) After selective enrichment, inoculate selective plates (such as MAC and BGN for pullorum-typhoid and MAC, BGN, and XLT 4) for SE. Inoculate three to five *Salmonella*-suspect colonies from plates into triple sugar iron (TSI) and lysine iron agar (LIA) slants. Screen colonies by serological (i.e., serogroup) and biochemical procedures (e.g., the Analytical Profile Index for Enterobacteriaceae [API]) as shown in illustration 1. As a supplement to screening three to five *Salmonella*-suspect colonies on TSI and LIA slants, a group D colony lift assay may be utilized to signal the presence of hard-to-detect group D *Salmonella* colonies on agar plates.

(6) If the initial selective enrichment is negative for *Salmonella,* a delayed secondary enrichment (DSE) procedure is used. Leave the tetrathionate-enriched sample at room temperature for 5 to 7 days. Transfer 1 mL of the culture into 10 mL of fresh tetrathionate enrichment broth, incubate at 37 C for 20 to 24 hours, and plate as before.

(7) Serogroup all isolates identified as salmonellae and serotype all serogroup D1 isolates. Phage-type all SE isolates.

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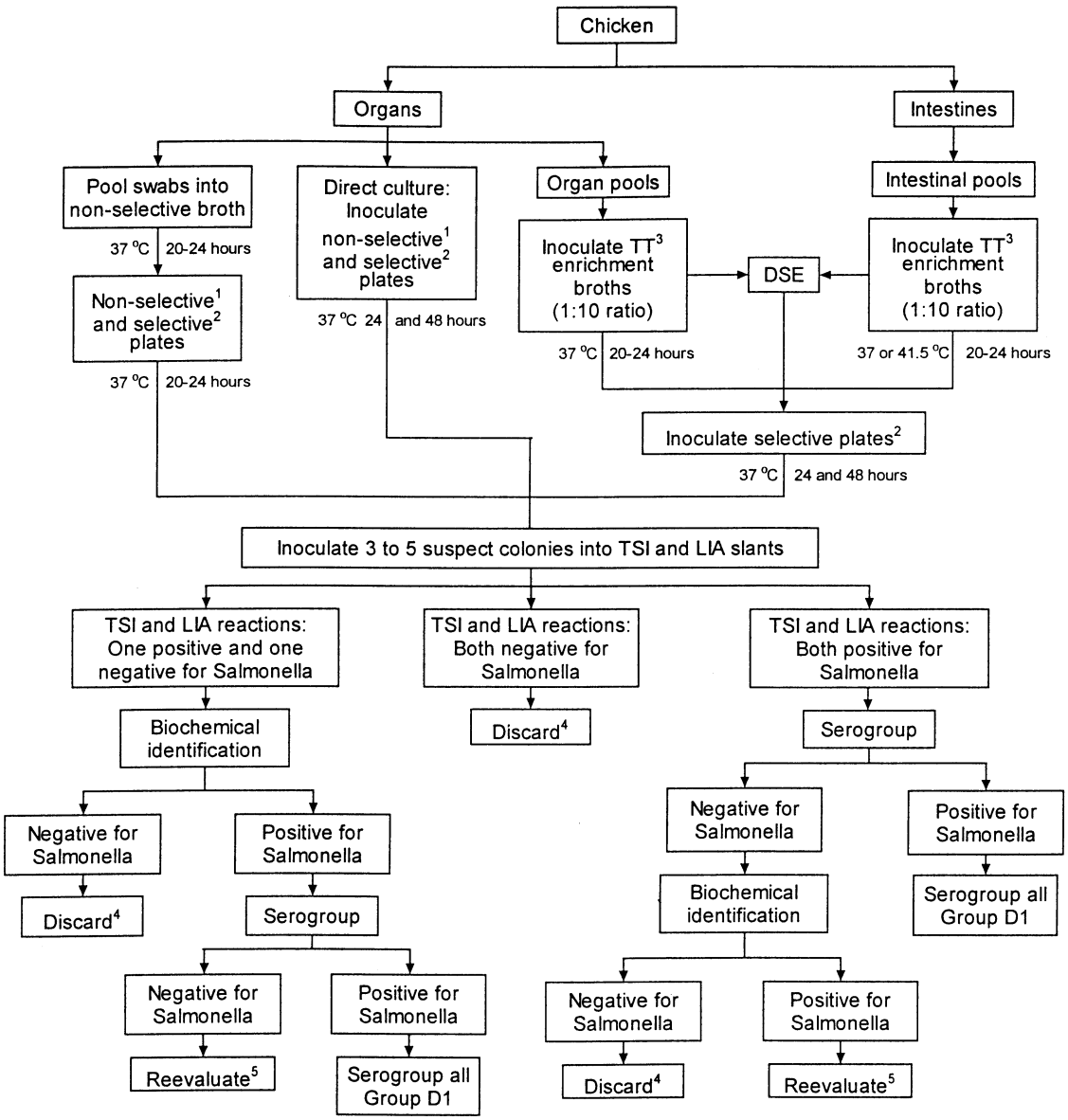
[7] Biochemical identification charts may be obtained from ''A Laboratory Manual for the Isolation and Identification of Avian Pathogens,'' chapter 2, Salmonellosis. Fourth edition, 1998, American Association of Avian Pathologists, Inc., Kennett Square, PA 19348.

Illustration 1.—Procedure for culturing Pullorum-Typhoid reactors and birds from SE-positive environments.



1. Non-selective plates such as blood or nutrient agar.
2. Selective plates such as MacConkey, Brilliant Green Novobiocin (BGN) for pullorum-typhoid reactors and MacConkey, BGN, and xylose-lysine tergitol 4 (XLT 4) for SE.
3. Tetrathionate enrichment broth.
4. Reevaluate if epidemiologic, necropsy, or other information indicates the presence of an unusual strain of Salmonella.
5. If biochemical identification and serogroup procedures are inconclusive, restreak original colony onto non-selective plating media to check for purity. Repeat biochemical and serology tests.

BILLING CODE 3410–34–C

* * * * *

19. Section 147.12 is amended as follows:

a. By revising the section heading.

b. In paragraph (a), the introductory text, by removing the word ''shall'' and adding the word ''should'' in its place.

c. In paragraph (a)(1)(i), by removing the words ''(Hajna or Mueller-Kauffmann Tetrathionate Brilliant Green)''.

d. In paragraph (a)(3), the introductory text, by adding the words ''(or commercially available sponges designed for this purpose)'' immediately before the words '', a key component''.

e. In paragraph (a)(3)(ii), by removing the words ''paragraph (a)(1)'' and adding the words ''paragraph (a)(3)(i)'' in their place.

f. In paragraph (a)(3)(iv), by revising the first two sentences.

g. By adding new paragraphs (a)(4) and (a)(5).

h. By removing paragraph (c), redesignating paragraph (b) as paragraph (c), and adding a new paragraph (b).

i. In the introductory text of newly redesignated paragraph (c)(1), by removing the citation ''(b)(1)(i) or (b)(1)(ii)'' and adding the citation ''(c)(1)(i) or (c)(1)(ii)'' in its place.

j. In the introductory text of newly redesignated paragraph (c)(2), by removing the citation ''(b)(2)(i)'' and adding the citation ''(c)(2)(i)'' in its place.

§ 147.12 Procedures for collection, isolation, and identification of Salmonella from environmental samples, cloacal swabs, chick box papers, and meconium samples.

* * * * *

(a) * * *

(3) * * *

(iv) *Nest box or egg belt sampling technique.* Collect nest box or egg belt samples by using two 3-by-3 inch sterile gauze pads premoistened with double-strength skim milk and wiping the pads over assorted locations in about 10 percent of the total nesting area or the egg belt. * * *

* * * * *

(4) *Chick box papers.* Samples from chick box papers may be bacteriologically examined for the presence of *Salmonella.* The Plan participant may collect the samples in accordance with paragraph (a)(4)(i) of this section or submit chick box papers directly to a laboratory in accordance with paragraph (a)(4)(ii) of this section. It is important that the paper be removed from the chick box before the box is placed in the brooding house.

(i) Instructions for collecting samples from chick box papers:

(A) Collect 1 chick box paper for each 10 boxes of chicks placed in a house and lay the papers on a clean surface.

(B) Clean your hands and put on latex gloves. Do not apply disinfectant to the gloves. Change gloves after collecting samples from 10 chick box papers or any time a glove is torn.

(C) Saturate a sterile 3-by-3 inch gauze pad with double-strength skim milk (see footnote 12 to this section) and rub the pad across the surface of five chick box papers. Rub the pad over at least 75 percent of each paper and use sufficient pressure to rub any dry meconium off the paper. Pouring a small amount of double-strength skim milk (1 to 2 tablespoons) on each paper will make it easier to collect samples.

(D) After collecting samples from 10 chick box papers, place the two gauze pads used to collect the samples (i.e., one pad per 5 chick box papers) into an 18 oz. Whirl-Pak bag and add 1 to 2 tablespoons of double-strength skim milk.

(E) Promptly refrigerate the Whirl-Pak bags containing the samples and transport them, on ice or otherwise refrigerated, to a laboratory within 48 hours of collection. The samples may be frozen for longer storage if the Plan participant is unable to transport them to a laboratory within 48 hours.

(ii) The Plan participant may send chick box papers directly to a laboratory, where samples may be collected as described in paragraph (a)(4)(i) of this section. To send chick box papers directly to a laboratory:

(A) Collect 1 chick box paper for each 10 boxes of chicks placed in a house and place the chick papers immediately into large plastic bags and seal the bags.

(B) Place the plastic bags containing the chick box papers in a clean box and transport them within 48 hours to a laboratory. The plastic bags do not require refrigeration.

(iii) The laboratory must follow the procedure set forth in paragraph (a)(5) of this section for testing chick meconium for *Salmonella.*

(5) *Chick meconium testing procedure for Salmonella.*

(i) Record the date, source, and flock destination on the ''Meconium Worksheet.''

(ii) Shake each plastic bag of meconium until a uniform consistency is achieved.

(iii) Transfer a 25 gm sample of meconium to a sterile container. Add 225 mL of a preenrichment broth to each sample (this is a 1:10 dilution), mix gently, and incubate at 37 °C for 18–24 hours.

(iv) Enrich the sample with selective enrichment broth for 24 hours at 42 °C.

(v) Streak the enriched sample onto brilliant green novobiocin (BGN) agar and xylose-lysine-tergitol 4 (XLT4) agar.

(vi) Incubate both plates at 37 °C for 24 hours and process suspect *Salmonella* colonies according to paragraph (b) of this section.

(b) *Isolation and identification of Salmonella.* Either of the two enrichment procedures in this paragraph may be used.

(1) Tetrathionate enrichment with delayed secondary enrichment (DSE):

(i) Add tetrathionate enrichment broth to the sample to give a 1:10 (sample to enrichment) ratio. Incubate the sample at 37 or 41.5 °C for 20 to 24 hours as shown in illustration 2.

(ii) After selective enrichment, inoculate selective plates (such as BGN and XLT4). Incubate the plates at 37 °C for 20 to 24 hours. Inoculate three to five *Salmonella*-suspect colonies from the plates into triple sugar iron (TSI) and lysine iron agar (LIA) slants. Incubate the slants at 37 °C for 20 to 24 hours. Screen colonies by serological (i.e., serogroup) and biochemical (e.g., API) procedures as shown in illustration 2. As a supplement to screening three to five *Salmonella*-suspect colonies on TSI and LIA slants, a group D colony lift assay may be utilized to signal the presence of hard-to-detect group D *Salmonella* colonies on agar plates.

(iii) If the initial selective enrichment is negative for *Salmonella*, use a DSE procedure. Leave the original tetrathionate-enriched sample at room temperature for 5 to 7 days. Transfer 1 mL of the culture into 10 mL of fresh tetrathionate enrichment broth, incubate at 37 °C for 20 to 24 hours, and plate as in paragraph (b)(1)(ii) of this section.

(iv) Serogroup all isolates identified as *Salmonella* and serotype all serogroup D isolates. Phage-type all *Salmonella enteritidis* isolates.

(2) Pre-enrichment followed by selective enrichment. (See illustration 2.)

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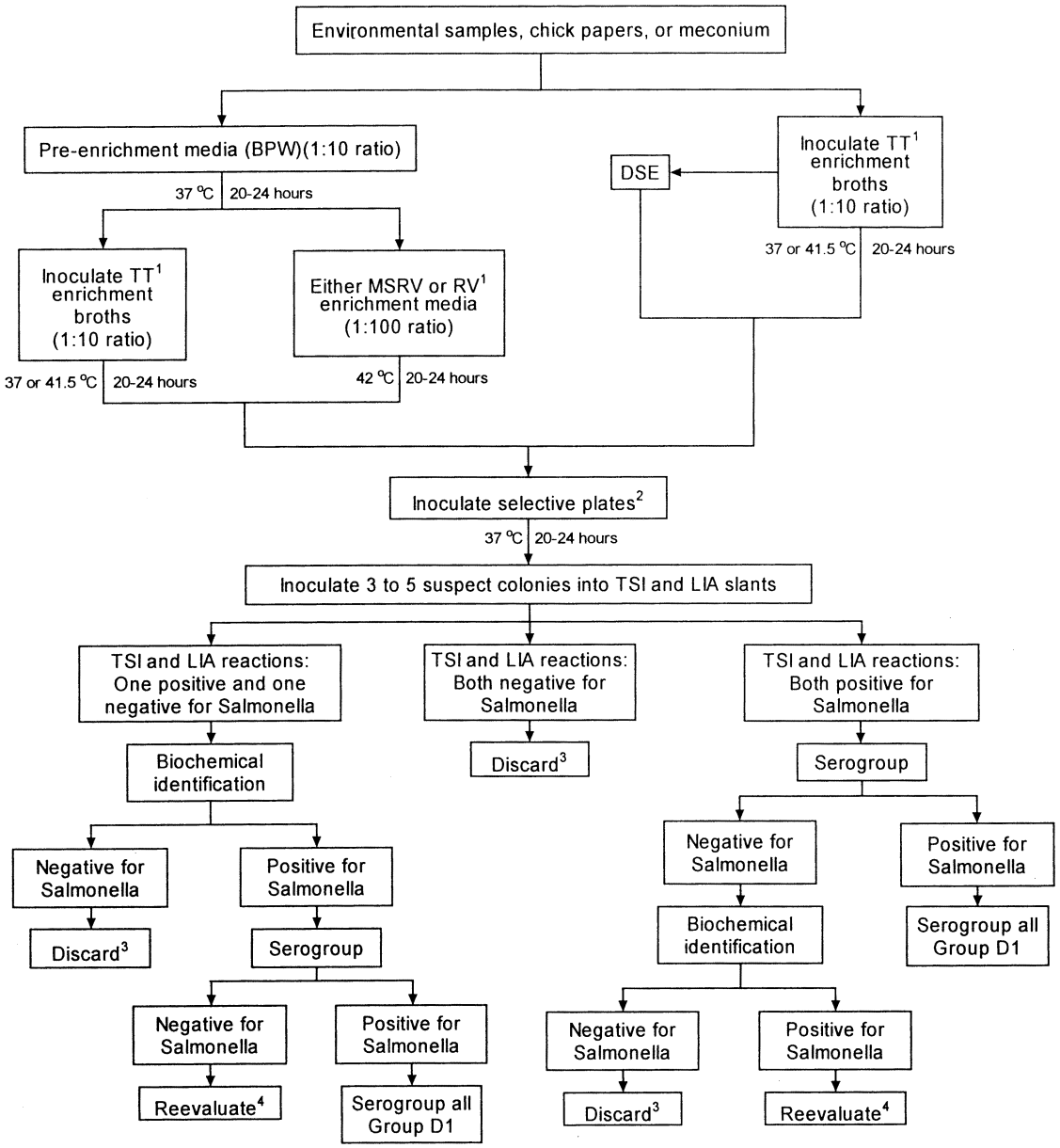
Illustration 2.—Culture procedures for environmental samples, chick papers, or meconium.



1. Tetrathionate enrichment broth, e.g., Rappaport-Vassiliades (RV) or modified semisolid RV (MSRV).
2. Selective plates such Brilliant Green Novobiocin (BGN) or xylose-lysine tergitol 4 (XLT 4).
3. Reevaluate if epidemiologic, necropsy, or other information indicates the presence of an unusual strain of Salmonella.
4. If biochemical identification and serogroup procedures are inconclusive, restreak original colony onto non-selective plating media to check for purity. Repeat biochemical and serology tests.

BILLING CODE 3410–34–C

* * * * *

§ 147.18 [Removed]

20. Section 147.18 is removed.

21. Section 147.22 is revised to read as follows:

§ 147.22 Hatching egg sanitation.

Hatching eggs should be collected from the nests at frequent intervals and, to aid in the prevention of contamination with disease-causing organisms, the following practices should be observed:

(a) Cleaned and disinfected containers, such as egg flats, should be used in collecting the nest eggs for hatching. Egg handlers should thoroughly wash their hands with soap and water prior to and after egg collection. Clean outer garments should be worn.

(b) Dirty eggs should not be used for hatching purposes and should be collected in a separate container from the nest eggs. Slightly soiled nest eggs may be gently dry cleaned by hand.

(c) Hatching eggs should be stored in a designated egg room under conditions that will minimize egg sweating. The egg room walls, ceiling, floor, door, heater, and humidifier should be cleaned and disinfected after every egg pickup. Cleaning and disinfection procedures should be as outlined in § 147.24.

(d) The egg processing area should be cleaned and disinfected daily.

(e) Effective rodent and insect control programs should be implemented.

(f) The egg processing building or area should be designed, located, and constructed of such materials as to assure that proper egg sanitation procedures can be carried out, and that the building itself can be easily, effectively, and routinely sanitized.

(g) All vehicles used for transporting eggs or chicks/poults should be cleaned and disinfected after use. Cleaning and disinfection procedures should be as outlined in § 147.24.

22. Section 147.23 is revised to read as follows:

§ 147.23 Hatchery sanitation.

An effective program for the prevention and control of *Salmonella* and other infections should include the following measures:

(a) An effective hatchery sanitation program should be designed and implemented.

(b) The hatchery building should be arranged so that separate rooms are provided for each of the four operations: Egg receiving, incubation and hatching, chick/poult processing, and egg tray and hatching basket washing. Traffic and airflow patterns in the hatchery should be from clean areas to dirty areas (i.e., from egg room to chick/poult processing rooms) and should avoid tracking from dirty areas back into clean areas.

(c) The hatchery rooms, and tables, racks, and other equipment in them should be thoroughly cleaned and disinfected frequently. All hatchery wastes and offal should be burned or otherwise properly disposed of, and the containers used to remove such materials should be cleaned and sanitized after each use.

(d) The hatching compartments of incubators, including the hatching trays, should be thoroughly cleaned and disinfected after each hatch.

(e) Only clean eggs should be used for hatching purposes.

(f) Only new or cleaned and disinfected egg cases should be used for transportation of hatching eggs. Soiled egg case fillers should be destroyed.

(g) Day-old chicks, poults, or other newly hatched poultry should be distributed in clean, new boxes and new chick papers. All crates and vehicles used for transporting birds should be cleaned and disinfected after each use.

23. Section 147.24 is amended as follows:

a. In paragraph (a), the introductory text, by removing the words ‘‘, hatchery rooms and delivery trucks’’.

b. By revising paragraphs (a)(1) and (a)(3).

c. In paragraph (b), the introductory text, by adding the words ‘‘and hatchery rooms’’ immediately after the word ‘‘hatchers’’.

d. By revising paragraph (b)(1).

e. In paragraph (b)(3), by removing the word ‘‘sanitized’’ and adding the word ‘‘disinfected’’ in its place.

f. By redesignating paragraph (c) as paragraph (b)(4) and adding a new paragraph (c).

§ 147.24 Cleaning and disinfecting.

* * * * *

(a) * * *

(1) Remove all live ‘‘escaped’’ and dead birds from the building. Blow dust from equipment and other exposed surfaces. Empty the residual feed from the feed system and feed pans and remove it from the building. Disassemble feeding equipment and dump and scrape as needed to remove any and all feed cake and residue. Clean up spilled feed around the tank and clean out the tank. Rinse down and wash out the inside of the feed tank to decontaminate the surfaces and allow to dry.

* * * * *

(3) Wash down the entire inside surfaces of the building and all the installed equipment such as curtains, ventilation ducts and openings, fans, fan housings and shutters, feeding equipment, watering equipment, etc. Use high pressure and high volume water spray (for example 200 pounds per square inch and 10 gallons per minute or more) to soak into and remove the dirt to decontaminate the building. Scrub the walls, floors, and equipment with a hot soapy water solution. Rinse to remove soap.

* * * * *

(b) * * *

(1) Use cleaning agents and sanitizers that are registered by the U.S. Environmental Protection Agency as germicidal, fungicidal, pseudomonocidal, and tuberculocidal. Use manufacturer’s recommended dilution. Remove loose organic debris by sweeping, scraping, vacuuming, brushing, or scrubbing, or by hosing surface with high pressure water (for example 200 pounds per square inch and 10 gallons per minute or more). Remove trays and all controls and fans for separate cleaning. Use hot water (minimum water temperature of 140 °F) for cleaning hatching trays and chick separator equipment. Thoroughly wet the ceiling, walls, and floors with a stream of water, then scrub with a hard bristle brush. Use a cleaner/sanitizer that can penetrate protein and fatty deposits. Allow the chemical to cling to treated surfaces at least 10 minutes before rinsing off. Manually scrub any remaining deposits of organic material until they are removed. Rinse until there is no longer any deposit on the walls, particularly near the fan opening, and apply disinfectant. Use a clean and sanitized squeegee to remove excess water, working down from ceilings to walls to floors and being careful not to recontaminate cleaned areas.

* * * * *

(c) The egg and chick/poult delivery truck drivers and helpers should use the following good biosecurity practices while picking up eggs or delivering chicks/poults:

(1) Spray truck tires thoroughly with disinfectant before leaving the main road and entering the farm driveway.

(2) Put on sturdy, disposable plastic boots or clean rubber boots before getting out of the truck cab. Put on a clean smock or coveralls and a hairnet before entering the poultry house.

(3) After loading eggs or unloading chicks/poults, remove the dirty smock/coveralls and place into plastic garbage bag before loading in the truck. Be sure to keep clean coveralls separate from dirty ones.

(4) Reenter the cab of the truck and remove boots before placing feet onto floorboards. Remove hairnet and leave with disposable boots on farm.

(5) Sanitize hands using appropriate hand sanitizer.

(6) Return to the hatchery or go to the next farm and repeat the process.

§ 147.25 [Amended]

24. Section 147.25 is amended by removing the words ''as an essential'' and adding the words ''or rooms as a'' in their place.

25. Section 147.26 is amended as follows:

a. By revising paragraph (a).

b. In paragraph (b)(5), by removing the word ''Keep'' and adding the words ''Establish a rodent control program to keep'' in its place.

c. By removing paragraph (b)(10) and redesignating paragraphs (b)(11) through (b)(15) as paragraphs (b)(10) through (b)(14), respectively.

§ 147.26 Procedures for establishing isolation and maintaining sanitation and good management practices for the control of Salmonella and Mycoplasma infections.

(a) The following procedures are required for participation under the U.S. Sanitation Monitored, U.S. M. Gallisepticum Clean, U.S. M. Synoviae Clean, U.S. S. Enteritidis Monitored, and U.S. S. Enteritidis Clean classifications:

(1) Allow no visitors except under controlled conditions to minimize the introduction of *Salmonella* and *Mycoplasma*. Such conditions must be approved by the Official State Agency and the Service;

(2) Maintain breeder flocks on farms free from market birds and other domesticated fowl. Follow proper isolation procedures as approved by the Official State Agency;

(3) Dispose of all dead birds by locally approved methods.

* * * * *

26. In § 147.43, paragraph (b) is revised to read as follows:

§ 147.43 General Conference Committee.

* * * * *

(b) The regional committee members and their alternates will be elected by the official delegates of their respective regions, and the member-at-large will be elected by all official delegates. There must be at least two nominees for each position, the voting will be by secret ballot, and the results will be recorded. At least one nominee from each region must be from an underrepresented group (minorities, women, or persons with disabilities). The process for soliciting nominations for regional committee members will include, but not be limited to: Advertisements in at least two industry journals, such as the newsletters of the American Association of Avian Pathologists, the National Chicken Council, the United Egg Producers, and the National Turkey Federation; a Federal Register announcement; and special inquiries for nominations from universities or colleges with minority/disability enrollments and faculty members in poultry science or veterinary science.

* * * * *

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–4264 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–203–AD; Amendment 39–12663; AD 2002–04–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, that requires repetitive inspections for cracking of the upper chord of the rear spar of the wing, and corrective action, if necessary. This action is necessary to find and fix such cracking, which could result in fuel leaking through the cracks, reduced structural integrity of the wing, and separation of the wing from the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective April 1, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 1, 2002.

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

FOR FURTHER INFORMATION CONTACT: Duong Tran, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2773; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 727 series airplanes was published in the **Federal Register** on November 28, 2001 (66 FR 59384). That action proposed to require repetitive inspections for cracking of the upper chord of the rear spar of the wing, and corrective action, if necessary.

Comments

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

Conclusion

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

Cost Impact

There are approximately 1,375 Boeing Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 912 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane to accomplish the required inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $656,640, or $720 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–04–06 Boeing: Amendment 39–12663. Docket 2001–NM–203–AD.

Applicability: All Model 727 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To find and fix cracking of the upper chord of the rear spar of the wing, which could result in fuel leaking through the cracks, reduced structural integrity of the wing, and separation of the wing from the airplane, accomplish the following:

Repetitive Inspections

(a) Prior to the accumulation of 20,000 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever is later, do detailed visual and high frequency eddy current inspections for cracking of the upper chord of the rear spar of the wing, according to Boeing Service Bulletin 727–57–0184, dated August 16, 2001. The detailed visual inspection must include an inspection of the surface finish for damage or deterioration (discoloration, blistering, raised or rough areas), as described in the service bulletin. Repeat all inspections every 4,500 flight cycles.

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

Repairs

(b) If any cracking, damage, or deterioration is found during any inspection required by paragraph (a) of this AD: Before further flight, do paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) If any damage or deterioration but no cracking is found, remove the finish, blend the area smooth, and reapply the finish according to Boeing Service Bulletin 727–57–0184, dated August 16, 2001.

(i) If the blend-out is within the limits specified in Section 57–10–1 of the Boeing 727 Structural Repair Manual (SRM), no further action is required by this paragraph.

(ii) If the blend-out is outside the limits specified in Section 57–10–1 of the Boeing 727 SRM, before further flight, repair according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(2) If any cracking is found, repair according to a method approved by the Manager, Seattle ACO, or according to data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) Except as provided by paragraphs (b)(1)(ii) and (b)(2) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 727–57–0184, dated August 16, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on April 1, 2002.

Issued in Renton, Washington, on February 14, 2002.

Charles D. Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–4112 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 40, 41, and 42

[Public Notice 3921]

Visas: Documentation of Nonimmigrants and Immigrants Under the Immigration and Nationality Act, As Amended: Fingerprinting; Access to Criminal History Records; Conditions for Use of Criminal History Records

ACTION: Interim rule, with request for comments.

SUMMARY: Recent legislation, commonly known as the USA Patriot Act, requires the Federal Bureau of Investigation (FBI) to give the Department access to certain of its criminal history record and other databases, conditioned in certain instances upon the Department providing an applicant's fingerprints to the FBI. This rule amends the Department's regulations pertaining to the fingerprinting of nonimmigrants and immigrants. It also establishes new regulations that set forth the conditions for the use, protection, dissemination and destruction of any criminal history or other records provided to the Department by the FBI.

DATES: Effective date: This interim final rule is effective on February 25, 2002.

Comment date: Written comments must be submitted on or before April 26, 2002.

ADDRESSES: Submit comments in duplicate to the Chief, Legislation and Regulations Division, Visa Services, Department of State, 20520–0106, Comments may also be forwarded via e-mail at *VisaRegs@state.gov.* or faxed at (202) 663–3898.

FOR FURTHER INFORMATION CONTACT: Nancy Altman, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, (202) 261–8040.

SUPPLEMENTARY INFORMATION:

What Is the Authority for This Rule?

On October 26, 2001, the President signed into law the ''Uniting and Strengthening America Act by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism'' (USA Patriot Act), Pub. L. 107–56. [Section 403 of the USA Patriot Act, in relevant part, amended section 105 of the INA by inserting ''(a)'' after ''Sec. 105 '' and by adding the language of section 403 as subpart ''(b)'' in that section.]

Section 403 of the USA Patriot Act requires the FBI to provide the Department access to certain criminal history record and other databases contained in the National Crime Information Center (NCIC) as mutually agreed upon by the Attorney General and the Department. The purpose of this provision is to give the Department access to an applicant's criminal history or other record indexed in a specified NCIC database and to place conditions on the Department's use of database information it receives from the FBI.

How Will the Department Access NCIC Criminal History Records?

Access to NCIC databases is to be provided by means of criminal history record extracts for placement in the Department's automated Lookout database. All visa applicants and applicants for admission to the United States will be subject to name-check queries against the extract information for the purpose of determining whether an applicant may have a criminal history or other record. The extracts of the records are to be provided without charge and are to be updated at intervals mutually agreed upon by the FBI and the Department. At the time of receipt of an updated criminal history extract, the Department will destroy previously provided extracts contained in its database. Access to an extract does not entitle the Department to obtain an applicant's corresponding automated full content criminal history record. The full content of a criminal history record can only be obtained by submitting the applicant's fingerprints to the FBI with the appropriate processing fee.

Which Applicants Must Be Fingerprinted?

When extract information indicates that an applicant may have a criminal history record indexed in an NCIC database, the Department will require the applicant to submit fingerprints and pay the specified fee fingerprint processing fee. The Department will forward the fingerprints and the fee to the FBI for the purpose of confirming whether or not the criminal history or other record in the NCIC database belongs to the applicant. If an applicant's fingerprints confirm an NCIC criminal history record, the FBI will forward the automated full content criminal history record to the Department.

Are Limitations Placed On the Department's Use of NCIC Criminal History Records?

NCIC criminal history record information (which includes the extract data associated with such information) received by the Department is considered law enforcement sensitive and is subject to conditions for its use and procedures for its destruction. Section 403 requires the Department:

- To limit the re-dissemination of criminal history records received from the FBI;
- To use any criminal history information it receives solely to determine whether or not to issue a visa to an alien or to admit the alien to the United States;
- To ensure the security, confidentiality, and destruction of such information; and
- To protect any privacy rights of individuals who have NCIC criminal history records.

Because NCIC–III and other FBI criminal history records received by the Department are law enforcement sensitive, only authorized consular personnel with visa processing responsibilities may have access to an applicant's criminal history record. To protect applicants' privacy, the Department must secure all NCIC criminal history or other records, automated or otherwise, to prevent access by unauthorized persons. Unless otherwise mutually agreed upon by the Attorney General and the Secretary of State, NCIC–III and other FBI criminal history records may be used solely to determine whether or not to issue a visa to an alien or to admit an alien to the United States. At the time the Department receives updated NCIC criminal history extracts from the FBI, the Department will delete the outdated NCIC criminal history extracts from its database/s.

How Is the Department Amending Its Regulations?

The Department is amending its regulations by adding a new section at 22 CFR 40.5 ''Limitations on the use of NCIC criminal history record information.'' The new section establishes the conditions for the use of applicants' criminal history record information by the Department.

The Department is also amending its regulations at section 22 CFR 41.105(b) by adding a new paragraph (2) ''NCIC name check response.'' Paragraph (2) of subsection (b) states the requirement for the fingerprinting of any nonimmigrant applicant whose name check response indicates the possibility of a criminal history record indexed in the NCIC databases.

The Department is further amending its regulations at section 22 CFR 42.67(c) ''Fingerprinting'' by adding a new paragraph (2) ''NCIC name check response.'' Paragraph (2) of subsection (c) states the requirement for fingerprinting any immigrant applicant

whose name check response indicates the possibility of a criminal history record indexed in the NCIC databases.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department's implementation of this regulation as an interim rule is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The USA Patriot Act, signed into law on October 26, 2001, requires that final regulations be promulgated prior to the Department's receipt of NCIC data but no later than four months after the date of enactment. The Department has determined there to be insufficient time to issue a proposed rule with a request for comments.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices: or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Department does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section (3)(f), Regulatory planning and Review. Therefore, in accordance with the letter to the Department of State of February 4, 1994, from the Director of the Office of Management and Budget, it does not require review by the Office of Management and Budget.

Executive Order 13132

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements.

List of Subjects

22 CFR Part 40

Aliens, Nonimmigrants and Immigrants, Passports and visas.

22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas.

22 CFR Part 42

Aliens, Immigrants, Passports and visas.

Accordingly, the Department amends 22 CFR Parts 40, 41, and 42 to read as follows:

PART 40—[AMENDED]

1. The authority citation for Part 40 shall continue to read:

Authority: 8 U.S.C. 1104.

2. Amend Part 40 by adding a new § 40.5 to read as follows:

§ 40.5 Limitations on the use of National Crime Information Center (NCIC) criminal history information.

(a) *Authorized access.* The FBI's National Crime Information Center (NCIC) criminal history records are law enforcement sensitive and can only be accessed by authorized consular personnel with visa processing responsibilities.

(b) *Use of information.* NCIC criminal history record information shall be used solely to determine whether or not to issue a visa to an alien or to admit an alien to the United States. All third party requests for access to NCIC criminal history record information shall be referred to the FBI.

(c) *Confidentiality and protection of records.* To protect applicants' privacy, authorized Department personnel must secure all NCIC criminal history records, automated or otherwise, to prevent access by unauthorized persons. Such criminal history records must be destroyed, deleted or overwritten upon receipt of updated versions.

PART 41—[AMENDED]

3. The authority citation for Part 41 shall continue to read as follows:

Authority: 8 U.S.C, 1104; Pub. L. 105–277, 112 Stat. 2681 *et seq.*

4. Amend § 41.105 by redesignating paragraph (b) as (b)(1) and adding a new paragraph (b)(2) to read as follows:

§ 41.105 Supporting documents and fingerprinting.

* * * * *

(b) * * *

(2) *NCIC name check response.* When an automated database name check query indicates that a nonimmigrant applicant may have a criminal history record indexed in an NCIC database, the applicant shall be required to have a set of fingerprints taken in order for the Department to obtain such record. The applicant must pay the fingerprint-processing fee as indicated in the schedule of fees found at 22 CFR part 22.1.

PART 42—[AMENDED]

5. The authority citation for Part 42 shall continue to read:

Authority: 8 U.S.C. 1104

6. Amend § 42.67 by redesignating paragraph (c) as (c)(1) and adding a new paragraph (c)(2) to read as follows:

§ 42.67 Execution of application, registration, and fingerprinting.

* * * * *

(c) * * *

(2) *NCIC name check response.* When an automated database name check query indicates that an immigrant applicant may have a criminal history record indexed in an NCIC database, the applicant shall be required to have a set of fingerprints taken in order for the Department to obtain such record. The applicant must pay the fingerprint processing fee as indicated in the schedule of fees found at 22 CFR 22.1.

Dated: February 15, 2002.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, U.S. Department of State.

[FR Doc. 02–4541 Filed 2–22–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–018]

Drawbridge Operation Regulations: Hackensack River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Witt-Penn (Route 7) Bridge, mile 3.1, across the Hackensack River at Jersey City, New Jersey. This temporary deviation will allow the bridge to remain closed to navigation from 9 a.m. on March 5, 2002 through 6 a.m. on March 7, 2002. This temporary deviation is necessary to facilitate repairs at the bridge.

DATES: This deviation is effective from March 5, 2002 through March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: The Witt-Penn (Route 7) Bridge has a vertical clearance in the closed position of 35 feet at mean high water and 40 feet at mean low water. The existing regulations are listed at 33 CFR 117.5.

The bridge owner, New Jersey Department of Transportation, has requested a temporary deviation from the drawbridge operating regulations to facilitate necessary maintenance, power and communication cable replacement, at the bridge. The nature of the required repairs will require the bridge to remain in the closed position.

During this deviation the bridge will not open for vessel traffic from 9 a.m. on March 5, 2002 through 6 a.m. on March 7, 2002.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: February 13, 2002.

G.N. Naccara,

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

[FR Doc. 02–4416 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–019]

Drawbridge Operation Regulations: Hampton River, NH

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the SR1A Bridge, mile 0.0, across the Hampton River in New Hampshire. This deviation from the regulations, effective from February 20, 2002 through March 31, 2002, allows the bridge to remain in the closed position for vessel traffic. This temporary deviation is necessary to facilitate scheduled maintenance repairs at the bridge.

DATES: This deviation is effective from February 20, 2002 through March 31, 2002.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The existing drawbridge operating regulations are listed at 33 CFR 117.697.

The bridge owner, New Hampshire Department of Transportation (NHDOT), requested a temporary deviation from the drawbridge operating regulations to facilitate necessary structural repairs at the bridge.

This deviation to the operating regulations, effective from February 20, 2002 through March 31, 2002, allows the SR1A Bridge to remain in the closed position for vessel traffic. There have been only two or three opening at this bridge each year during the requested time period scheduled for these structural repairs in past years. The Coast Guard coordinated this closure with the mariners effected and no objections were received.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: February 13, 2002.

G.N. Naccara,

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

[FR Doc. 02–4415 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC67

Special Regulations; Areas of the National Park System

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is adopting this final rule to designate as snowmobile routes on NPS administered Appalachian National Scenic Trail lands, portions of snowmobile trails that are part of a State-approved network of snowmobile routes and that cross the Appalachian Trail corridor. Snowmobile use on these routes is established. The Park Manager is also provided the discretion to designate temporary snowmobile crossings in the Compendium of Superintendent's Orders.

DATES: This rule becomes effective March 27, 2002.

FOR FURTHER INFORMATION CONTACT: Pamela Underhill, Park Manager, Appalachian National Scenic Trail, National Park Service, Harpers Ferry Center, Harpers Ferry, WV 25425. Telephone 304–535–6278. Email: *Pamela_Underhill@nps.gov*.

SUPPLEMENTARY INFORMATION:

Background

The regulation designates as snowmobile routes on NPS administered Appalachian National Scenic Trail lands, portions of snowmobile trails that are part of a State-approved network of snowmobile routes that cross NPS administered lands in order to connect with other state approved routes. The regulation designates the minimum number of crossings necessary to accommodate statewide snowmobile trail networks.

The Appalachian Trail is a north-south hiking trail that stretches nearly 2,160 miles from Katahdin, Maine, to Springer Mountain, Georgia, along the crest of the Appalachian Mountains. The Trail is administered by the Secretary of the Interior through the NPS, in consultation with the Secretary of Agriculture through the U.S. Forest Service, as part of the National Trails System. Upon completion of the land protection program, the NPS will have protected approximately 800 miles of the Trail and approximately 100,000 acres of land. Because NPS administered lands are intermingled with private, local, state and other

Federal government lands, differing regulations apply and varying land uses are allowed. These agencies have become partners in the Appalachian Trail cooperative management system. The linear nature of the resource and the varied land ownership patterns require special consideration in management planning.

Generally, any motorized use along the Appalachian Trail is prohibited, including snowmobiles. However the National Trails System Act provides for limited authority for allowing snowmobile use for crossings, emergencies, and for adjacent landowners:

> The use of motorized vehicles by the general public along any national scenic trail shall be prohibited and nothing in this chapter shall be construed as authorizing the use of motorized vehicles within the natural and historical areas of the national park system, the national wildlife refuge system, the national wilderness preservation system where they are presently prohibited or on other federal lands where they are presently prohibited or on other Federal lands where trails are designated as being closed to such use by the appropriate Secretary: *Provided*, That the Secretary charged with the administration of such trail shall establish regulations which shall authorize the use of motorized vehicles when, in his judgment, such vehicles are necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights . . . (16 U.S.C. 1246 (c)).

The regulation allows limited snowmobile crossings of the Appalachian Trail while still prohibiting such use along the trail. Additionally, the limited use is consistent with the Federal government's obligations to provide access for emergencies and to owners of lands adjacent to the Trail.

36 CFR 2.18 of the NPS general regulations prohibits the use of snowmobiles in units of the National Park System except on routes designated specifically for snowmobile use. These specific routes must be authorized through promulgation of special regulations. Snowmobile use may occur only on designated routes and when the use is consistent with the park's natural, cultural, scenic and aesthetic values, safety considerations, park management objectives, and will not disturb wildlife or damage park resources. Section 2.18 establishes further procedures and criteria for the use of snowmobiles within park areas. The term ''snowmobile'' is defined in § 1.4 and conforms to the standard definition used by the International Snowmobile Industry Association. The NPS does not intend that this definition be broadly interpreted to include any other motorized or non-motorized off-road vehicles.

During the development of the NPS land protection program, the issue of continuing use of existing snowmobile crossings of the planned Trail corridor was raised by adjacent landowners, snowmobile organizations and state agencies. The NPS assured interested parties that establishment of the permanent linear trail corridor would not sever established snowmobile routes. For the purposes of this Special Regulation, established snowmobile routes are considered to be those routes in use at the time of NPS land acquisition. The NPS has worked closely with state snowmobile organizations and state agencies to identify only those routes that are part of a State-approved network of snowmobile routes.

There are a number of crossings of the Appalachian Trail corridor by established, State-approved snowmobile trails in Maine, New Hampshire, Vermont, Massachusetts and Connecticut. Most of these crossings are currently allowed by deeded right-of-way reserved by the seller or by public road right-of-way. Three State-approved snowmobile trails, two in Maine and one in Massachusetts cross lands acquired for the protection of the Appalachian Trail and would require designation. The NPS intends to designate only the State approved routes that are existing crossings of the trail corridor and part of a State network of snowmobile routes. Within the NPS corridor, snowmobile travel will be limited to the designated crossing only. Snowmobiles will not be permitted to follow the trail footpath itself. Snowmobile use of other NPS Appalachian Trail corridor lands will not be allowed.

A proposed regulation was published in the **Federal Register** on March 19, 1998 (63 FR 13383). Public comment was invited. The comment period closed May 18, 1998.

Summary of Comments Received

During the public comment period, the NPS received two letters. Both of the respondents to the proposed rule endorsed the proposed special regulation. The respondents stated that the regulation would fulfill commitments made to the snowmobile community that acquisition for the Appalachian Trail would not sever existing snowmobile routes while limiting motorized recreation within the trail corridor.

Drafting Information

The principal authors of this rulemaking are Robert W. Gray, Park Ranger, Appalachian National Scenic Trail and Dennis Burnett, Washington Office of Ranger Activities, National Park Service.

Compliance with Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Order 12866)

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

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. This rule establishes designated routes for snowmobile use across the Trail and would cause only a small economic benefit to the local communities, if any.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule supports local government and community plans for snowmobile routes that already exist.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. There are no budgetary considerations involved in this rule.

(4) This rule does not raise novel legal or policy issues. This rule codifies snowmobile use that previously existed.

Regulatory Flexibility Act

The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 *et seq.*). This rule codifies existing use of snowmobile routes and merely maintains use levels; it does not restrict or prohibit current use patterns so would not likely have any economic impact.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

a. Does not have an annual effect on the economy of $100 million or more. This rule is not expected to have any effect on the economy since the rule does not change existing uses in any way.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. No increase is expected since the rule does not change existing uses in any way.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.–based enterprises to compete with foreign–based enterprises. No effects are expected since the rule does not change existing uses in any way.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule poses no mandates on the government or private sector. The use of snowmobile routes on the Trail is a voluntary activity.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule codifies existing snowmobile use and does not have implications on lands outside the Trail.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule codifies existing snowmobile use and does not place any requirements on State governments.

Civil Justice Reform (Executive Order 12988)

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

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. In accordance with 516 DM 6, Appendix 7.4 A(10), the NPS has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to (a) increase public use to the extent of compromising the nature and character of the area or causing physical damage to it, (b) introduce incompatible uses which compromise the nature and character of the area or cause physical damage to it, (c) conflict with adjacent ownerships or land uses, or (d) cause a nuisance to adjacent owners or occupants. A Categorical Exclusion Determination has been completed.

Government-to-Government Relationship with Tribes

In accordance with Executive Order 13175 ''Consultation with Indian Tribal Governments'' (65 FR 67249) and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), and 512 DM 2, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. This rule solely affects snowmobile users who choose to use the crossing routes designated in this rule and does not have any effects on lands or entities outside the NPS.

List of Subject in 36 CFR Part 7

National parks, District of Columbia, Reporting and recordkeeping requirements

In consideration of the foregoing, 36 CFR Part 7 is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); § 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Revise § 7.100 to read as follows:

§ 7.100 Appalachian National Scenic Trail.

(a) *What activities are prohibited?*

(1) The use of bicycles, motorcycles or other motor vehicles is prohibited. The operation of snowmobiles is addressed in paragraph (b).

(2) The use of horses or pack animals is prohibited, except in locations designated for their use.

(b) *Where can I operate my snowmobile?*

(1) You may cross the Appalachian National Scenic Trail corridor by using established, State-approved snowmobile trails in Maine, New Hampshire, Vermont, Massachusetts and Connecticut that are allowed by deeded right-of-way reserved by the seller or by public road right-of-way. You may also cross National Park Service administered lands within the Appalachian National Scenic Trail corridor at the following locations:

(2) Nahmakanta Lake Spur—The spur snowmobile route that leads from Maine Bureau of Parks and Lands Debsconeag Pond Road to the southeastern shore of Nahmakanta Lake.

(3) Lake Hebron to Blanchard-Shirley Road Spur—The spur snowmobile route that leads from Lake Hebron near Monson, Maine to the Maine Interconnecting Trail System Route 85 near the Blanchard-Shirley Road.

(4) Massachusetts Turnpike to Lower Goose Pond Crossing—That part of the Massachusetts Interconnecting Trail System Route 95 from the Massachusetts Turnpike Appalachian Trail Bridge to the northeastern shore of Lower Goose Pond.

(5) Temporary crossings of National Park Service administered Appalachian Trail corridor lands may be designated by the Park Manager in the Superintendent's Compendium of Orders when designated snowmobile routes are temporarily dislocated by timber haul road closures.

(6) Maps that show the crossings of National Park Service administered lands within the Appalachian National Scenic Trail may be obtained from the Park Manager, Appalachian National Scenic Trail, Harpers Ferry Center, Harpers Ferry, West Virginia 25425.

(c) *Is powerless flight permitted?* The use of devices designed to carry persons through the air in powerless flight is allowed at times and locations designated by the Park Manager, pursuant to the terms and conditions of a permit.

Dated: February 1, 2002.

Joseph E. Doddridge,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 02–4339 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024–AC83

Special Regulations; Wrangell-St. Elias National Park and Preserve

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule amends the regulations for Wrangell-St. Elias

National Park (WRST) by adding the communities of Dot Lake, Healy Lake, Northway (including Northway, Northway Village and Northway Junction), Tanacross, and Tetlin to the park subsistence resident zone. The regulation provides for the addition of communities to park subsistence resident zones. Park subsistence resident zones include nearby areas and communities with a significant concentration of residents who are eligible to engage in subsistence activities in the park. Permanent residents of subsistence resident zone communities are allowed to participate in subsistence activities in the park without a subsistence permit.

DATES: This rule is effective March 27, 2002.

ADDRESSES: Superintendent, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573, (907) 822–7210.

FOR FURTHER INFORMATION CONTACT: Devi Sharp, Chief, Natural and Cultural Resources, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573, (907) 822–7236

SUPPLEMENTARY INFORMATION: The principal authors of this rule are Devi Sharp, Wrangell-St. Elias National Park and Preserve, Janis Meldrum and Paul Hunter, Alaska System Support Office, Anchorage, Alaska, and Kym Hall, Regulations Manager, Washington, DC.

I. Background

A proposed rule to amend 36 CFR 13.73 was published by the National Park Service (NPS) in the **Federal Register** on June 14, 2001 (66 FR 32282). The intent of this regulation change is to add five communities to the WRST subsistence resident zone in accordance with the provisions of 36 CFR 13.43(b). Section 13.43 provides for the addition and deletion of nearby communities to park subsistence resident zones in Alaska based on stated criteria in the section. The community of Northway made the first request to be added to the WRST subsistence resident zone in 1985. Subsequently four additional communities requested consideration. The request has been the subject of review and favorable recommendations by the park Subsistence Resource Commission (SRC), a federal advisory group for subsistence activities, since the initial request in 1985. After review and study, including public notice, hearing and comment, as well as environmental assessment and finding of no significant impact, the NPS has determined the five communities are qualified to be added to the park subsistence resident zone. A collateral administrative change to more clearly describe community and area boundaries is also adopted by this revised rule.

II. Responses to Public Comments

Two respondents commented on the proposed regulations during the 60-day public comment period that closed August 13, 2001. Those comments and our responses follow.

Quantity Test

Comment: A public interest organization questioned the methodology used to determine significant concentrations of subsistence users. They recommended that a ''quantity test'', in which at least 51% of community residents are shown to be eligible park subsistence users, should be used.

NPS Response: While the ''quantity test'' idea continues to be debated among interested park constituencies, including agency managers and staffers, NPS policy favors use of a more flexible methodology that considers a wider range of variables. We believe the existing methodology is consistent with the legislative mandate for subsistence activities in the Alaska parks and monuments.

Re-evaluation of Existing Communities

Comment: The public interest organization recommended that existing resident zone communities should be re-examined periodically using the ''quantity test'' and current census data to evaluate continuing eligibility. A State of Alaska agency expressed concern that the addition of new communities might lead to unnecessary re-evaluation of current resident zone communities.

NPS Response: The NPS is committed to re-evaluating resident zone communities on a case-by-case basis as necessary. A regular established schedule for reviewing resident zone communities would be costly and does not appear to be warranted at this time. The State concern for unnecessary reviews is not warranted by program experience to date.

Defer Action

Comments: The public interest organization recommended deferring action on the five new communities until resident zone evaluation methodology is revised and existing communities re-evaluated as discussed above. The State agency supported the rulemaking analysis and the addition of the five communities to the park resident zone.

NPS Response: The NPS believes the existing methodology used to apply the eligibility criteria is consistent with the authorizing legislation. While the resident zone concept has been the subject of much debate from the start, the actual application of the program criteria has been stable. The same criteria used to establish the existing resident zone communities have been uniformly applied to the five new communities. Therefore, we believe there is no reason to defer action on adding these communities to the park resident zone as proposed.

Compliance With Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Order 12866)

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

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, Local, or tribal governments or communities. The net effect of adoption of this rule would be to reduce costs by eliminating the need for subsistence users to apply for a permit. The cost saving would accrue to the affected user groups and the park through reduction of actual and potential administrative costs.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. There will be no change in the manner or substance of interaction with other agencies.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. Current and potential subsistence permittees will continue to be eligible under the resident zone system.

(4) This rule does not raise novel legal or policy issues. This rule is the direct consequence of an existing regulatory method for administering the resident zone system.

While the decision concerning adding or deleting a particular community could be controversial, the regulatory process for making the decision is well established in existing regulations.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5

U.S.C. 601 *et seq.*). The economic consequences of this rule will be to reduce administrative costs for private citizens and for the park. The permitting process that would be eliminated for the residents of five communities operates directly between individual subsistence users and the park. Therefore, there is no impact on small entities and a Regulatory Flexibility Analysis and Small Entity Compliance Guide are not required.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

a. Does not have an annual effect on the economy of $100 million or more. This rule applies to individual subsistence users. It has no applicability to small businesses.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule will reduce costs for private citizens and the federal government. It will eliminate the need for subsistence users in five communities to apply to the National Park Service for a subsistence permit. The rule will eliminate application costs to individual subsistence users such as the cost of a phone call, postage, or travel to the park office, and will reduce the current and potential administrative processing costs for the park.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule does not affect foreign trade. The interaction of the subsistence economy and the general economy is unchanged by this rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule affects the permitting process between individual subsistence users and the park. There is no involvement of small governments in this relationship. The subsistence activities affected occur only on federal public lands within a national park.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule will modify regulations in a manner that reduces the regulatory impact on private citizens, and is, therefore, excluded from EO 12630.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule applies to the permitting relationship between individual subsistence users and the park for activities occurring on federal public lands within the park. The rule does not change or impact the relationship of the park with State and local governments.

Civil Justice Reform (Executive Order 12988)

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

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required. This rule will eliminate permit applications for residents of the five affected communities, thus reducing the level of previously approved information collection (see 46 FR 31854) associated with subsistence management in the park.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. However, Environmental Assessments (EAs) and findings of no significant impact (FONSIs) have been completed and are on file in the NPS office at 2525 Gambell St., Anchorage, AK 99503 and at Wrangell-St. Elias National Park and Preserve offices in Copper Center.

Government-to-Government Relationship With Tribes

In accordance with Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments'' and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), and 512 DM 2 we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. This rule applies to individual subsistence users and will result in the elimination of the need for certain subsistence users to apply for a permit to engage in allowable subsistence activities in the park. Subsistence use on federal public lands is not managed as a tribal activity and the federal subsistence program does not apply on Native owned lands.

List of Subjects in 36 CFR Part 13

Alaska, National Parks; Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the National Park Service amends 36 CFR part 13 as follows:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

Subpart C—Special Regulations—Specific Park Areas in Alaska

1. The authority citation for Part 13 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; § 13.65 also issued under 16 U.S.C. 1a–2(h), 1361, 1531.

2. Amend § 13.73 as follows:

a. By revising the heading of paragraph (a)(1) and by adding the following entries in alphabetical order to the list of communities in paragraph (a)(1);

b. By redesignating paragraph (a)(2) as paragraph (a)(3);

c. By adding a new paragraph (a)(2);

d. By revising the heading of newly redesignated paragraph (a)(3).

The addition and revisions read as follows:

§ 13.73 Wrangell-St. Elias National Park and Preserve.

(a) *Subsistence*—(1) *What communities and areas are included in the park resident zone?*

* * * * *

Dot Lake

* * * * *

Healy Lake

* * * * *

Northway/Northway Village/Northway Junction

* * * * *

Tanacross

* * * * *

Tetlin

* * * * *

(2) *How are boundaries determined for communities added to the park resident zone?* Boundaries for communities and areas added to the park resident zone will be determined by the Superintendent after consultation with the affected area or community. If

the Superintendent and community are not able to agree on a boundary within two years, the boundary of the area or community added will be the boundary of the Census Designated Place, or other area designation, used by the Alaska Department of Labor for census purposes for that community or area. Copies of the boundary map will be available in the park headquarters office.

(3) *What communities are exempted from the aircraft prohibition for subsistence use?*

* * * * *

Dated: February 1, 2002.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–4340 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–70–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (''Corporation'') is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines as issued by the Department of Health and Human Services.

EFFECTIVE DATE: This rule is effective as of February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 750 First Street N.E., Washington, DC 20002–4250; (202) 336–8817; mcondray@lsc.gov.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act (''Act''), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Poverty Guidelines. The revised figures for 2002 set out below are equivalent to 125% of the current Poverty Guidelines as published on February 14, 2002 (67 FR 6931).

For reasons set forth above, 45 CFR 1611 is amended as follows:

PART 1611—ELIGIBILITY

1. The authority citation for Part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of Part 1611 is revised to read as follows:

Appendix A of Part 1611

LEGAL SERVICES CORPORATION 2002 POVERTY GUIDELINES*

Size of family unit	48 contiguous States and the District of Columbia [i]	Alaska [ii]	Hawaii [iii]
1	$11,075	$13,850	$12,750
2	14,925	18,663	17,175
3	18,775	23,475	21,600
4	22,625	28,288	26,025
5	26,475	33,100	30,450
6	30,325	37,913	34,875
7	34,175	42,725	39,300
8	38,025	47,538	43,725

* The figures in this table represent 125% of the poverty guidelines by family size as determined by the Department of Health and Human Services.

[i] For family units with more than eight members, add $3,850 for each additional member in a family.

[ii] For family units with more than eight members, add $4,813 for each additional member in a family.

[iii] For family units with more than eight members, add $4,425 for each additional member in a family.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–4420 Filed 2–22–02; 8:45 am]

BILLING CODE 7050–01–P

Rules and Regulations

Federal Register
Vol. 67, No. 37
Monday, February 25, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300, 301, 318, 319, and 353

[Docket No. 01–050–1]

Steam Treatment of Golden Nematode-Infested Farm Equipment, Construction Equipment, and Containers

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference into the Code of Federal Regulations, to allow containers, construction equipment without cabs, and farm equipment without cabs used in golden nematode-infested areas to be treated with steam heat before being moved interstate from any regulated area. This action provides an alternative to fumigation with methyl bromide for treating used containers, construction equipment without cabs, and farm equipment without cabs.

DATES: This rule will be effective on April 26, 2002 unless we receive written adverse comments or written notice of intent to submit adverse comments that are postmarked, delivered, or e-mailed by March 27, 2002. The incorporation by reference provided for by this rule is approved by the Director of the Federal Register as of April 26, 2002.

ADDRESSES: You may submit comments or notice of intent to submit adverse comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies (an original and three copies) to: Docket No. 01–050–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–050–1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 01–050–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Vedpal Malik, Agriculturist, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–6774.

SUPPLEMENTARY INFORMATION:

Background

The golden nematode (*Globodera rostochiensis*) is a plant pest that is highly destructive to potatoes and other solanaceous plants. The golden nematode has been determined to occur in the United States only in parts of New York.

The golden nematode regulations (contained in 7 CFR 301.85 through 301.85–10 and referred to below as the regulations) list two entire counties and portions of seven other counties in the State of New York as regulated areas and restrict the interstate movement of regulated articles from those areas. Such restrictions are necessary to prevent the artificial spread of the golden nematode to noninfested areas of the United States.

Regulated articles are identified in § 301.85(b). The list of regulated articles includes used mechanized cultivating equipment, used mechanized harvesting equipment, used mechanized soil-moving equipment, used crates, and other used farm products containers. Regulated articles must meet conditions specified in the regulations before they may be moved interstate from a regulated area. One of the conditions for movement is treatment.

The Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual), which is maintained by the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS), contains approved treatment schedules and is incorporated by reference into the Code of Federal Regulations at 7 CFR 300.1. Currently, fumigation with methyl bromide is the sole treatment available in the PPQ Treatment Manual to qualify used containers, construction equipment, and farm equipment for interstate movement from areas infested with golden nematodes.

Research conducted by APHIS[1] has demonstrated that steam heat effectively eliminates the golden nematode. Steam treatment takes less time than fumigation with methyl bromide—1 hour versus 24 to 48 hours—and commodities can be released to the owner immediately after steam treatment, whereas several hours of aeration are required after methyl bromide fumigation. Steam treatment is not harmful to the environment and is noncorrosive. No special precautions are necessary for the transportation of steam treatment equipment. In addition, steam treatments can be performed at farm or warehouse locations with less stringent safety requirements than those needed for methyl bromide fumigation (e.g., enclosures used for methyl bromide fumigation must be leakproof, and the location must be secured to prevent unauthorized entry and exposure to methyl bromide).

Therefore, we are amending the PPQ Treatment Manual to allow used containers, used construction equipment without cabs, and used farm equipment without cabs to be treated with steam heat before being moved interstate from any regulated area. (Pending further testing, this treatment was not recommended for equipment or vehicles with cabs due to possible damage to electrical or plastic components.) This action provides an alternative to fumigation with methyl

[1] Information concerning this research may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.**

bromide for treating used containers, construction equipment, and farm equipment. The treatment procedure we are adding to the PPQ Treatment Manual is described in the following paragraphs.

Treatment Procedure

Administer steam treatment in a tarpaulin or tent using steam generators. The recommended minimum air temperature for steam treatment varies according to the size of the enclosure in which the treatment is conducted. For enclosures 4,000 ft^3 or less, the recommended minimum air temperature is 40 °F, and for enclosures 4,000 to 6,000 ft^3, the recommended minimum air temperature is 60 °F.

Place the farm equipment or containers inside the tarpaulin or tent so that it faces the front of the enclosure, where the steam will be introduced. If a tarp (6 mil plastic) is used instead of a tent, pad sharp edges of the equipment or containers before covering with the tarp. Place temperature recording sensors on the equipment or containers to be treated.

When the treatment is being conducted in enclosures 4,000 ft^3 or less, use at least four temperature recording sensors in addition to the probe on the steam generator. Place probes in hard-to-treat cracks or crevices on the equipment or containers. Position probes in the following locations: (1) Front high—near the top of the front of the equipment or load; (2) center middle—midway from the top and bottom of the center of the equipment or load; (3) center bottom—bottom of the center of the equipment or load, but at least 3 inches above the floor if the equipment is flush with the floor; and (4) rear bottom—bottom of the rear of the equipment, but at least 3 inches above the floor if the equipment is flush with the floor.

When the treatment is being conducted in enclosures 4,000 to 6,000 ft^3, use at least eight temperature recording sensors in addition to the probe on the steam generator. Again, place probes in hard-to-treat cracks or crevices on the equipment or containers. Position probes in the following locations: (1) Front high—near the top of the left side of the front of the equipment or load; (2) front low—bottom of the right side of the front of the equipment or load, but at least 3 inches above the floor if the equipment is flush with the floor; (3) center high—near the top of the center of the equipment or load on the right side; (4) center middle—midway from the top and bottom of the center of the equipment or load; (5) center low—bottom of the center of the equipment or load on the left side, but at least 3 inches above the floor if the equipment is flush with the floor; (6) rear high—near the top of the rear of the equipment on the right side; (7) rear middle—midway from the top and bottom of the rear of the equipment; and (8) rear low—bottom of the rear of the equipment or load on the left side, but at least 3 inches above the floor if the equipment is flush with the floor.

Place the steam generator at the front of the enclosure. Close the tent or tarp and place sandsnakes (flexible weights) at the base to seal it. As an airtight seal is not essential for steam treatment; small pinholes are acceptable.

Steam heat the enclosure for 60 minutes after all probes reach a minimum of 140 °F (60 °C). The maximum temperature in the enclosure should not exceed 160 °F (71 °C). Throughout the treatment, record the temperatures at least once every 2 minutes.

Miscellaneous

The scientific name for golden nematode has been changed from *Heterodera rostochiensis* to *Globodera rostochiensis.* Therefore, we are amending §§ 301.85(a) and 301.85–1 to reflect that change.

We are also revising the definition for the term *treatment manual* in § 301.85–1 so that it refers to the PPQ Treatment Manual rather than the ''Manual of Administratively Authorized Procedures to be Used Under the Golden Nematode Quarantine'' and the ''Fumigation Procedures Manual,'' which are no longer in use. Revising the definition of *treatment manual* will eliminate footnote 1, so we are also redesignating the subsequent footnotes in the subpart.

The definitions in § 301.85–1 are no longer assigned paragraph designations and are simply listed in alphabetical order. We are, therefore, amending § 301.85(b) to update a reference to the definition of *regulated article.*

Finally, we are revising part 300 so that all of the materials incorporated by reference are assigned specific section designations. Accordingly, we are also updating citations to part 300 found elsewhere in title 7.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, on April 26, 2002, unless we receive written adverse comments or written notice of intent to submit adverse comments that are postmarked, delivered, or e-mailed by March 27, 2002.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments that are postmarked, delivered, or e-mailed within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This rule, which allows containers, construction equipment without cabs, and farm equipment without cabs used in golden nematode-infested areas to be treated with steam heat before being moved interstate from any regulated area, provides an alternative to fumigation with methyl bromide.

It is expected that the cost of steam treatment will compare favorably to the cost of methyl bromide fumigation. Treatment costs will continue to be borne by APHIS. A steam generator and related equipment, such as temperature sensors and plastic tarps, costs approximately $20,000. After the initial investment in equipment, most of the cost of treatment is due to personnel costs. It takes one 8-hour day for a Plant Protection and Quarantine (PPQ) officer and a technician to steam treat farm equipment, including the time required to set up and tear down the treatment site.

In contrast, there are higher equipment and personnel costs associated with methyl bromide treatment. The cost of methyl bromide is currently $3.24 per pound. For a 24-hour treatment, 15 lbs of methyl bromide per 1,000 ft^3 is needed, while 7.5 lbs of methyl bromide per 1,000 ft^3 are needed for a 48-hour treatment. PPQ officers must be certified to handle

pesticides and must use a self-contained breathing apparatus during the treatment. A self-contained breathing apparatus costs $1,500 plus the cost of periodic maintenance. Air tanks cost $600–$700 and typically last about 3 years.

Personnel costs also would be higher for methyl bromide treatment than for steam treatment. Methyl bromide treatment takes from 24 to 48 hours. If the methyl bromide treatment site is secure, it is not necessary to have a PPQ officer on site during the entire treatment period. However, if the site is not secure, it is not advisable to leave the treatment site unattended.

Table 1 shows costs associated with each treatment option. These calculations assume that one GS–11 PPQ officer and one GS–7 technician would have to stay on site twice as long for methyl bromide treatments as for steam treatments. As noted previously, methyl bromide currently costs $3.24 per pound; these calculations assume that 30 lbs are needed per treatment, which is enough to treat 2,000 ft^3. We estimate that, over the course of 600 treatments, the use of steam treatment rather than methyl bromide would result in savings of $259,920. This is considerably more than the initial cost of the equipment needed for the steam treatment.

TABLE 1.—MARGINAL COST OF STEAM TREATMENT VS. METHYL BROMIDE TREATMENT

	Steam treatment	Methyl bromide
Labor GS–11, step 5	$200 ($25/hr × 8 hrs)	$400 ($25/hr × 16 hrs)
Labor GS–7, step 5	$136 ($17/hr × 8 hrs)	$272 ($17/hr × 16 hrs)
Chemicals	NA	$97.20 ($3.24 × 30 lbs)
Sub-total	$336	$769.20
Treatments per year	600	600
Total cost	$201,600	$461,520

Over the past 4 years, an average of 618 pieces of farm equipment per year have been treated. It is expected that, with this rule, most of these treatments will be steam treatments. However, there may still be some cases in which methyl bromide treatment is the preferred method of treatment.

While there are higher initial costs for steam treatment, the marginal cost for each treatment would be lower. Because steam treatment has lower marginal costs, in the long run it will be more economical to use steam treatment than methyl bromide fumigation.

Potato farms are classified as small businesses if they have less than $750,000 in annual receipts. USDA's National Agricultural Statistics Service (NASS) does not publish data by farm size for New York potato farms. However, it is likely that most of the farms affected by this rule would qualify as small businesses, as defined by the U.S. Small Business Administration (SBA).

This rule provides an alternative treatment for farm equipment, construction equipment, and containers used in golden nematode-infested areas. Farmers do not pay for the treatment; the costs are borne by APHIS. This is to encourage farmers to treat equipment before selling or moving it. Farm equipment is often treated when a farm is sold or going out of business, when farmers are unlikely to have the funds available to pay for treatment. Because the cost is not borne by the farmer, this rule will not have an adverse economic impact on these small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Incorporation by reference, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Logs, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

7 CFR Part 353

Exports, Incorporation by reference, Plant diseases and pests, Reporting and recordkeeping requirements.

Accordingly, we are amending 7 CFR chapter III as follows:

1. Part 300 is revised to read as follows:

PART 300–INCORPORATION BY REFERENCE

Subpart—Materials Incorporated by Reference

Sec.
300.1 Plant Protection and Quarantine Treatment Manual.
300.2 Dry Kiln Operator's Manual.
300.3 Reference Manual A.
300.4 Reference Manual B.

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

§ 300.1 Plant Protection and Quarantine Treatment Manual.

(a) In accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the Director of the Office of the Federal Register has approved for incorporation by reference

in 7 CFR chapter III the Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and all revisions through May 2000; and:

(1) Treatment T101–n–2 and T102–b, and Table 5–2–5, revised July 2001;

(2) Treatment T102–e, revised July 2001; and

(3) Treatment T406–d, dated January 2002.

(b) The treatments specified in the Plant Protection and Quarantine Treatment Manual and its revisions are required to authorize the movement of certain articles regulated by domestic quarantines (7 CFR parts 301 and 318) and foreign quarantines (7 CFR part 319).

(c) *Availability.* Copies of the Plant Protection and Quarantine Treatment Manual:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC; or

(2) May be obtained by writing or calling the Animal and Plant Health Inspection Service, Documents Management Branch, Printing Distribution and Mail Section, 4700 River Road Unit 1, Riverdale, MD 20737–1229, (301) 734–5524; or

(3) May be obtained from field offices of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine. Addresses of these offices may be found in local telephone directories.

§ 300.2 Dry Kiln Operator's Manual.

(a) The Dry Kiln Operator's Manual, which was published in August 1991 as Agriculture Handbook No. 188 by the United States Department of Agriculture, Forest Service, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(b) The kiln drying schedules specified in the Dry Kiln Operator's Manual provide a method by which certain articles regulated by ''Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles'' (7 CFR 319.40–1 through 319.40–11) may be imported into the United States.

(c) *Availability.* Copies of the Dry Kiln Operator's Manual:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC; or

(2) Are for sale as ISBN 0–16–035819–1 by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402–9328.

§ 300.3 Reference Manual A.

(a) The Reference Manual for Administration, Procedures, and Policies of the National Seed Health System, which was published on February 25, 2000, by the National Seed Health System (NSHS), has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(b) *Availability.* Copies of Reference Manual A:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC, and the APHIS Library, U.S. Department of Agriculture, 4700 River Road, Riverdale, MD; or

(2) May be obtained by writing to Phytosanitary Issues Management, Operational Support, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; or

(3) May be viewed on the APHIS Web site at *http://www.aphis.usda.gov/ppq/pim/accreditation.*

§ 300.4 Reference Manual B.

(a) The Reference Manual for Seed Health Testing and Phytosanitary Field Inspection Methods, which was published on February 27, 2001, by the National Seed Health System (NSHS), has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(b) *Availability.* Copies of Reference Manual B:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC, and the APHIS Library, U.S. Department of Agriculture, 4700 River Road, Riverdale, MD; or

(2) May be obtained by writing to Phytosanitary Issues Management, Operational Support, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; or

(3) May be viewed on the APHIS Web site at *http://www.aphis.usda.gov/ppq/pim/accreditation.*

PART 301—DOMESTIC QUARANTINE NOTICES

2. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

3. In § 301.45–1, footnote 3 is revised to read as follows:

§ 301.45–1 Definitions.

* * * * *

[3] The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

4. In § 301.64–10, paragraphs (a) and (f) are amended by revising the first sentence after the paragraph heading to read as follows:

§ 301.64–10 Treatments.

* * * * *

(a) * * * Cold treatment in accordance with the PPQ Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

(f) * * * Cold treatment in accordance with the PPQ Treatment Manual, which is incorporated by reference at § 300.1 of this chapter, and in accordance with the following schedule:

* * * * *

5. In § 301.78–10, the introductory paragraph is revised to read as follows:

§ 301.78–10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy Mediterranean fruit fly are authorized for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. The following treatments may be used for the regulated articles indicated:

* * * * *

6. In § 301.81–4, paragraph (b) is revised to read as follows:

§ 301.81–4 Interstate movement of regulated articles from quarantined areas.

* * * * *

(b) Inspectors are authorized to stop any person or means of conveyance moving in interstate commerce they have probable cause to believe is moving regulated articles, and to inspect the articles being moved and the means of conveyance. Articles found to be infested by an inspector, and articles not in compliance with the regulations in this subpart, may be seized, quarantined, treated, subjected to other remedial measures, destroyed, or otherwise disposed of. Any treatments will be in accordance with the methods and procedures prescribed in the Appendix to this subpart (III. *Regulatory Procedures*), or in accordance with the methods and procedures prescribed in the Plant Protection and Quarantine

Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

§ 301.85 [Amended]

7. In § 301.85, paragraph (a) is amended by removing the words ''(*Heterodera rostochiensis*)'' and adding the words ''(*Globodera rostochiensis*)'' in their place and in paragraph (b), the introductory text is amended by removing the citation ''§ 301.85–1(q)'' and adding the citation ''§ 301.85–1'' in its place.

8. Section 301.85–1 is amended as follows:

a. In the definition of *Golden nematode*, by removing the words ''(*Heterodera rostochiensis*)'' and adding the words ''(*Globodera rostochiensis*)'' in their place.

b. By revising the definition of *treatment manual* to read as follows.

§ 301.85–1 Definitions.

* * * * *

Treatment manual. The provisions currently contained in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

§ 301.85–2b [Amended]

9. In § 301.85–2b, footnote 2 and its reference in the section heading are redesignated as footnote 1.

§ 301.85–3 [Amended]

10. Section 301.85–3 is amended as follows:

a. Footnote 3 and its reference in the section heading are redesignated as footnote 2.

b. In paragraph (b), footnotes 4 and 5 and their references in the text are redesignated as footnotes 3 and 4, respectively.

11. In § 301.93–10, the introductory paragraph is revised to read as follows:

§ 301.93–10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy the Oriental fruit fly are approved for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. The following treatments can be used for bell pepper, citrus and grape, tomato, premises, and soil:

* * * * *

12. In § 301.97–10, the introductory paragraph is revised to read as follows:

§ 301.97–10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy the melon fruit fly are authorized for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. The following treatments also may be used for the regulated articles indicated:

* * * * *

13. In § 301.98–10, the introductory paragraph is revised to read as follows:

§ 301.98–10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy the West Indian fruit fly are authorized for use on regulated articles. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. The following treatments also may be used for the regulated articles indicated:

* * * * *

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

14. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7714, 7731, 7754, and 7756; 7 CFR 2.22, 2.80, and 371.3.

15. Section 318.13–11 is revised to read as follows:

§ 318.13–11 Disinfection of means of conveyance.

If an inspector, through an inspection pursuant to this subpart, finds that a means of conveyance is infested with or contains plant pests, and the inspector orders disinfection of the means of conveyance, then the person in charge or in possession of the means of conveyance shall disinfect the means of conveyance and its cargo in accordance with an approved method contained in the Plant Protection and Quarantine Treatment Manual under the supervision of an inspector and in a manner prescribed by the inspector, prior to any movement of the means of conveyance or its cargo. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

16. In § 318.58–4, paragraph (b) is revised to read as follows:

§ 318.58–4 Issuance of certificates or limited permits.

* * * * *

(b) *Certification on basis of treatment.* Fruits and vegetables designated in § 318.58–2(b) may be certified after undergoing an approved treatment contained in the Plant Protection and Quarantine Treatment Manual under the supervision of an inspector and if the articles are handled after treatment in accordance with all conditions that the inspector requires. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. Treatments shall be applied at the expense of the shipper, owner, or person in charge of the articles. The Department of Agriculture or its inspector will not be responsible for loss or damage resulting from any treatment prescribed or supervised under this subpart.

* * * * *

17. Section 318.58–11 is revised to read as follows:

§ 318.58–11 Disinfection of means of conveyance.

If an inspector, through an inspection pursuant to this subpart, finds that a means of conveyance is infested with or contains any plant pest, and the inspector orders disinfection of the means of conveyance, then the person in charge or in possession of the means of conveyance shall disinfect the means of conveyance and its cargo, in accordance with an approved method contained in the Plant Protection and Quarantine Treatment Manual under the supervision of an inspector and in a manner prescribed by the inspector, prior to any movement of the means of conveyance or its cargo. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

PART 319—FOREIGN QUARANTINE NOTICES

18. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

19. In § 319.37–4, footnote 6 is revised to read as follows:

§ 319.37–4 Inspection, treatment, and phytosanitary certificates of inspection.

* * * * *

[6] The Plant Protection and Quarantine Manual is incorporated by reference at § 300.1 of this chapter.

§ 319.40–7 [Amended]

20. In § 319.40–7, paragraph (d)(1)(i) is amended by removing the citation ''§ 300.1'' and adding the citation ''§ 300.2'' in its place.

21. In § 319.56–2h, paragraph (b) is revised to read as follows:

§ 319.56–2h Regulations governing the entry of grapes from Australia.

* * * * *

(b) *Authorized treatments.* Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

22. In § 319.56–2i, paragraph (a) is revised to read as follows:

§ 319.56–2i Administrative instructions prescribing treatments for mangoes from Central America, South America, and the West Indies.

(a) *Authorized treatments.* Treatment with an authorized treatment listed in the Plant Protection and Quarantine Treatment Manual will meet the treatment requirements imposed under § 319.56–2 as a condition for the importation into the United States of mangoes from Central America, South America, and the West Indies. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

* * * * *

23. In § 319.56–2p, paragraph (f) is revised to read as follows:

§ 319.56–2p Administrative instructions prescribing treatment and relieving restrictions regarding importation of okra from Mexico, the West Indies, and certain countries in South America.

* * * * *

(f) *Treatment of okra for pests other than pink bollworm.* If, upon examination of okra imported in accordance with paragraphs (c), (d), or (e) of this section, an inspector at the port of arrival finds injurious insects, other than the pink bollworm, that do not exist in the United States or are not widespread in the United States, the okra will remain eligible for entry into the United States only if it is treated for the injurious insects in the physical presence of an inspector in accordance with the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter. If the treatment authorized by the Plant Protection and Quarantine Treatment Manual is not available, or if no authorized treatment exists, the okra may not be entered into the United States.

24. In § 319.56–2r, paragraph (g)(2) is revised to read as follows:

§ 319.56–2r Administrative instructions governing the entry of apples and pears from certain countries in Europe.

* * * * *

(g) * * *

(2) Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

25. In § 319.56–2s, paragraph (f)(2) is revised to read as follows:

§ 319.56–2s Administrative instructions governing the entry of apricots, nectarines, peaches, plumcot, and plums from Chile.

* * * * *

(f) * * *

(2) Authorized treatments are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

* * * * *

PART 353–EXPORT CERTIFICATION

26. The authority citation for part 353 continues to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7718, 7751, and 7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 353.1 [Amended]

27. Section 353.1 is amended as follows:

a. In the definition of *Reference Manual A*, by removing the citation ''§ 300.1'' and adding the citation ''§ 300.3'' in its place.

b. In the definition of *Reference Manual B*, by removing the citation ''§ 300.1'' and adding the citation ''§ 300.4'' in its place.

§ 353.9 [Amended]

28. Section 353.9 is amended as follows:

a. In paragraph (b)(2), the introductory text, by removing the citation ''§ 300.1'' and adding the citation ''§ 300.4'' in its place.

b. In paragraph (b)(3), by removing the citation ''§ 300.1'' and adding the citation ''§ 300.3'' in its place.

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–4384 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 145 and 147

[Docket No. 00–075–2]

National Poultry Improvement Plan and Auxiliary Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. These changes, which were voted on and approved by the voting delegates at the Plan's 2000 Millennial Plan Conference, will keep the provisions of the Plan current with developments in the poultry industry and provide for the use of new sampling and testing procedures.

EFFECTIVE DATE: March 27, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1498 Klondike Road, Suite 200, Conyers, GA 30094–5104; (770) 922–3496.

SUPPLEMENTARY INFORMATION:

Background

The National Poultry Improvement Plan (NPIP, also referred to below as ''the Plan'') is a cooperative Federal-State-industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control egg-transmitted, hatchery-disseminated poultry diseases. Participation in all plan programs is voluntary, but flocks, hatcheries, and dealers must qualify as ''U.S. Pullorum-Typhoid Clean'' before participating in any other Plan program. Also, the regulations in 9 CFR part 82, subpart C, which provide for certain testing, restrictions on movement, and other restrictions on certain chickens, eggs, and other articles due to the presence of *Salmonella enteritidis,* prohibit hatching eggs or newly hatched chicks from egg-type chicken breeding flocks from being moved interstate unless they are classified ''U.S. S. Enteritidis Monitored'' under the Plan or have met equivalent requirements for *S. enteritidis* control, in accordance with 9 CFR 145.23(d), under official supervision.

The Plan identifies States, flocks, hatcheries, and dealers that meet certain disease control standards specified in the Plan's various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR parts 145 and 147 (referred to below as the regulations) contain the provisions of the Plan. The Animal and Plant Health Inspection Service (APHIS or the Service) of the U.S. Department of Agriculture (USDA or the Department) amends these provisions from time to time to incorporate new scientific information and technologies within the Plan.

On July 20, 2001, we published in the **Federal Register** (66 FR 37919–37932, Docket No. 00–075–1) a proposal to amend the regulations by (1) providing new or modified sampling, testing, and cleaning/disinfection procedures for Plan participants and participating flocks, (2) updating some of the Plan's administrative provisions, and (3) making several nonsubstantive editorial changes to improve clarity and correct erroneous citations to several sections within the regulations.

We solicited comments concerning our proposal for 60 days ending September 18, 2001. We received one comment by that date. The comment was from a private veterinarian who requested that we clarify what we meant by the phrase ''does not spread'' in the proposed revision to § 145.23(d)(1)(vi)(B). (That paragraph begins with the words ''If an injectable bacterin or live vaccine that does not spread is used * * *.'') The commenter was concerned that our use of that phrase meant that we intended to require the use of live vaccines that do not ever shed or that are not transmitted between birds, and stated that it was unlikely that any live vaccine could meet that standard, thus precluding the use of an otherwise valuable food safety vaccine.

As we explained in the proposed rule, the regulations in § 145.23(d)(1)(vi) regarding the use of a federally licensed Salmonella enteritidis bacterin had not differentiated between the use of vaccines or bacterins that may spread to other birds and those that do not, which is why we proposed to introduce the term ''does not spread'' into that paragraph. In both the proposed rule and this final rule, the text of § 145.23(d)(1)(vi)(B) does not require the use of live vaccines that do not spread, nor does it prohibit the use of live vaccines that spread. Rather, that paragraph simply offers a ''testing after vaccination'' option that may be utilized if an injectable bacterin or live vaccine that does not spread is used to vaccinate a flock.

We are making two minor technical changes in this final rule that were not discussed in the proposed rule. Specifically, in the proposed rule, we proposed to redesignate paragraph (b) of § 147.12 as paragraph (c), but inadvertently failed to update two internal references within that paragraph. Therefore, in this final rule we are amending redesignated § 147.12(c)(1) so the introductory text of that paragraph refers to paragraphs (c)(1)(i) and (c)(1)(ii) rather than (b)(1)(i) and (b)(1)(ii); similarly, we are amending redesignated § 147.12(c)(2) so the introductory text of that paragraph refers to paragraph (c)(2)(i) rather than (b)(2)(i).

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The changes contained in this document are based on the recommendations of representatives of member States, hatcheries, dealers, flockowners, and breeders who took part in the Plan's 2000 National Plan Conference. This rule amends the Plan and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. The changes contained in this rule, which were voted on and approved by the voting delegates at the Plan's 2000 National Plan Conference, will keep the provisions of the plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

The plan serves as a ''seal of approval'' for eggs and poultry producers in the sense that tests and procedures recommended by the Plan are considered optimal for the industry. In all cases, the changes in this document have been generated by the industry itself with the goal of reducing disease risk and increasing product marketability. Because participation in the Plan is voluntary, individuals are likely to remain in the program as long as the costs of implementing the program are lower than the added benefits they receive from the program.

The changes contained in this document generally either update testing procedures and sanitation guidelines or amend the Plan's administrative operations, with the aim of better safeguarding the health of the Nation's poultry industry. The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. We do not expect that the changes in this document will result in significant economic effects on small entities.

The Small Business Administration defines size standards for industries using the North American Industry Classification System (NAICS). Under this system, a firm classified within ''Chicken Egg Production'' (NAICS code 112310) is considered small if its annual receipts are $9 million or less. For firms classified within ''Broilers and Other Meat Type Chicken Production'' (NAICS code 112320), the small-entity criterion is annual receipts of $750,000 or less.

The egg and poultry industries are highly integrated vertically, with most production owned or under contract to large-scale processing and marketing firms.[1] For example, broilers for Tyson Foods, the world's largest producer, came in 1999 from 6,060 farms (98 percent under contract), and its eggs came from breeder flocks on 1,388 farms.[2]

In 1997, an average of 303,604,000 egg-producing layers produced 77,532 million eggs.[3] The number of egg-producing farms and their size distribution is not known, but it is reasonable to assume that some of them may be small entities, operating either independently or under contract.

Also in 1997, there were 13,458 farms that sold layers, pullets, and pullet chicks, and 23,937 farms that sold broilers and other meat-type chickens.[4] Regarding the latter, a farm would need to produce about 275,000 broilers a year in order to reach annual sales of at least $500,000, according to Census of Agriculture and other National Agricultural Statistics Service (NASS)

[1] The broiler industry, in particular, is heavily concentrated. Tyson Foods had weekly sales of ready-to-cook chicken that averaged 154.3 million pounds in 1999. The 10 largest broiler companies accounted for 429.6 million pounds per week in 1999, approximately half of the Nation's production (WATT Poultry USA, January 2000).

[2] WATT Poultry USA, January 2000.

[3] ''Chickens and Eggs, Final Estimates 1994–97,'' USDA/NASS, December 1998.

[4] 1997 Census of Agriculture.

data.[5] By this measure, about one-half of broiler farms can be considered small.[6]

Clearly, some of the poultry and egg-producing farms that may be affected by this rule are small. However, the procedural and administrative changes in this rule are not expected to have a significant economic impact on any entities, either large or small.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Parts 145 and 147

Animal diseases, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR parts 145 and 147 as follows:

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN

1. The authority citation for part 145 continues to read as follows:

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.4.

2. In § 145.1, a definition of *public exhibition* is added, in alphabetical order, to read as follows:

§ 145.1 Definitions.

* * * * *

Public exhibition. A public show of poultry.

* * * * *

3. In § 145.2, a new paragraph (e) is added to read as follows:

§ 145.2 Administration.

* * * * *

(e) An authorized laboratory of the National Poultry Improvement Plan will follow the laboratory protocols outlined in part 147 of this chapter when determining the status of a participating flock with respect to an official Plan classification.

* * * * *

4. Section 145.6 is amended as follows:

a. By revising paragraph (a).

b. In paragraph (b), by removing the word ''which'' and adding the word ''that'' in its place.

c. In paragraph (c), by removing the word ''shall'' and adding the word ''should'' in its place.

d. In paragraph (d), in both the first and second sentences, by removing the word ''shall'' and adding the word ''should'' in its place.

§ 145.6 Specific provisions for participating hatcheries.

(a) Hatcheries must be kept in sanitary condition, acceptable to the Official State Agency. The procedures outlined in §§ 147.22 through 147.25 of this chapter will be considered as a guide in determining compliance with this provision. The minimum requirements with respect to sanitation include the following:

(1) Egg room walls, ceilings, floors, air filters, drains, and humidifiers should be cleaned and disinfected at least two times per week. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(2) Incubator room walls, ceilings, floors, doors, fan grills, vents, and ducts should be cleaned and disinfected after each set or transfer. Incubator rooms should not be used for storage. Plenums should be cleaned at least weekly. Egg trays and buggies should be cleaned and disinfected after each transfer. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(3) Hatcher walls, ceilings, floors, doors, fans, vents, and ducts should be cleaned and disinfected after each hatch. Hatcher rooms should be cleaned and disinfected after each hatch and should not be used for storage. Plenums should be cleaned after each hatch. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(4) Chick/poult processing equipment and rooms should be thoroughly cleaned and disinfected after each hatch. Chick/poult boxes should be cleaned and disinfected before being reused. Vaccination equipment should be cleaned and disinfected after each use. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(5) Hatchery residue, such as chick/poult down, eggshells, infertile eggs, and dead germs, should be disposed of promptly and in a manner satisfactory to the Official State Agency.

(6) The entire hatchery should be kept in a neat, orderly condition and cleaned and disinfected after each hatch.

(7) Effective insect and rodent control programs should be implemented.

* * * * *

§ 145.10 [Amended]

5. In § 145.10, paragraphs (a) and (l) are removed and reserved and paragraph (m) is amended by adding the words ''§ 145.23(d) and'' immediately after the word ''See''.

§ 145.13 [Amended]

6. In § 145.13, the introductory text of the section is amended as follows:

a. In the first sentence, by adding the words ''in writing'' immediately after the words ''are notified''.

b. In the sixth sentence, by removing the words ''§§ 50.21 through 50.28–14 and §§ 50.30 through 50.33 of''.

c. In the seventh sentence, by removing the citation ''7 CFR 50.2(e), (g), (h), and (l)'' and adding the citation ''7 CFR 50.10'' in its place.

7. Section 145.14 is amended as follows:

a. In the introductory text of the section, by revising the first sentence.

b. In paragraph (a)(1), footnote 1, by removing the words ''Veterinary Biologics, 4700 River Road, Unit 148, Riverdale, Maryland 20737–1237'' and adding the words ''Center for Veterinary Biologics, 510 South 17th Street, Suite 104, Ames, IA 50010–8197'' in their place.

§ 145.14 Blood testing.

Poultry must be more than 4 months of age when blood tested for an official classification: *Provided*, That turkey candidates under subpart D of this part may be blood tested at more than 12 weeks of age; game bird candidates under subpart E of this part may be blood tested when more than 4 months of age or upon reaching sexual maturity, whichever comes first; and ostrich, emu, rhea, and cassowary candidates under subpart F of this part may be blood

[5] In 1997, the average liveweight equivalent price of broilers was $0.377 per pound, and the average weight was 4,835 pounds. Thus, the average price received per broiler was $1.82.

[6] The 1997 Census of Agriculture indicates that 52 percent of broiler-producing farms sold at least 200,000 broilers.

tested when more than 12 months of age. * * *

* * * * *

8. In § 145.23, paragraph (d) is amended as follows:

a. In paragraph (d), by revising the introductory text.

b. In paragraph (d)(1)(i), by removing the word ''Monitored'' and adding the word ''Clean'' in its place.

c. By revising paragraphs (d)(1)(iv) and (d)(1)(vi).

§ 145.23 Terminology and classification; flocks and products.

* * * * *

(d) *U.S. S. Enteritidis Clean.* This classification is intended for egg-type breeders wishing to assure their customers that the hatching eggs and chicks produced are certified free of *Salmonella enteritidis.*

(1) * * *

* * * * *

(iv) The flock is maintained in compliance with §§ 147.21, 147.24(a), and 147.26 of this chapter. Rodents and other pests should be effectively controlled;

* * * * *

(vi) If a *Salmonella* vaccine is used that causes positive reactions with pullorum-typhoid antigen, one of the following options must be utilized:

(A) Administer the vaccine after the pullorum-typhoid testing is done as described in paragraph (d)(1)(vii) of this section.

(B) If an injectable bacterin or live vaccine that does not spread is used, keep a sample of 350 birds unvaccinated and banded for identification until the flock reaches at least 4 months of age. Following negative serological and bacteriological examinations as described in paragraph (d)(1)(vii) of this section, vaccinate the banded, non-vaccinated birds.

* * * * *

§ 145.24 [Amended]

9. In § 145.24, paragraph (a)(2), at the end of the last sentence, the words ''in accordance with rules of practice adopted by the Administrator'' are added immediately after the word ''hearing''.

10. Section 145.33 is amended as follows:

a. By revising paragraph (c)(2).

b. In paragraph (h), the introductory text, by removing the word ''primary''.

c. By revising paragraph (h)(1)(i).

d. In paragraph (h)(1)(iv), by adding the words ''or under the supervision of'' immediately after the word ''by''.

e. By revising paragraph (h)(1)(vi).

f. In paragraph (h)(3), the first sentence, by removing the word ''in'' immediately before the words ''paragraph (h)(1)(iv)'' and by adding the words ''and/or 500 cloacal swabs collected in accordance with § 147.12(a)(2) of this chapter'' immediately before the word ''must''.

§ 145.33 Terminology and classification; flocks and products.

* * * * *

(c) * * *

(2) A participant handling U.S. M. Gallisepticum Clean products must keep these products separate from other products through the use of separate hatchers and incubators, separate hatch days, and proper hatchery sanitation and biosecurity (see §§ 147.22, 147.23, and 147.24) in a manner satisfactory to the Official State Agency: *Provided*, That U.S. M. Gallisepticum Clean chicks from primary breeding flocks must be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (c)(1)(i) of this section are set.

* * * * *

(h) * * *

(1) * * *

(i) The flock originated from a U.S. S. Enteritidis Clean flock, or one of the following samples has been examined bacteriologically for *S. enteritidis* at an authorized laboratory and any group D *Salmonella* samples have been serotyped:

(A) A 25-gram sample of meconium from the chicks in the flock collected and cultured as described in § 147.12(a)(5) of this chapter; or

(B) A sample of chick papers collected and cultured as described in § 147.12(c) of this chapter; or

(C) A sample of 10 chicks that died within 7 days after hatching.

* * * * *

(vi) Hatching eggs produced by the flock are collected as quickly as possible and are handled as described in § 147.22 of this chapter.

§ 145.34 [Amended]

11. In § 145.34, paragraphs (a)(2) and (b)(2) are each amended by adding the words ''in accordance with rules of practice adopted by the Administrator'' immediately after the word ''hearing''.

§ 145.44 [Amended]

12. In § 145.44, paragraphs (a)(2), (b)(2), and (c)(2) are each amended by adding the words ''in accordance with rules of practice adopted by the Administrator'' immediately after the word ''hearing''.

§ 145.53 [Amended]

13. In § 145.53, paragraph (a) is removed and reserved.

§ 145.54 [Amended]

14. In § 145.54, paragraph (a)(2) is amended by adding the words ''in accordance with rules of practice adopted by the Administrator'' immediately after the word ''hearing''.

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

15. The authority citation for part 147 continues to read as follows:

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.4.

§ 147.5 [Amended]

16. Section 147.5 is amended as follows:

a. In paragraph (c), by removing the numbers ''1:20'' and adding the numbers ''1:40'' in their place.

b. In paragraph (d), the introductory text, by removing the numbers ''1:20'' and adding the numbers ''1:40'' in their place.

c. In paragraph (d)(2), by removing the words ''10 microliters (0.01 cc.)'' and adding the words ''5 microliters (0.005 cc.)'' in their place.

§ 147.7 [Amended]

17. In § 147.7, paragraph (e)(2)(ii)(B) is amended by removing the third and fourth sentences.

18. In § 147.11, paragraph (a) is revised to read as follows:

§ 147.11 Laboratory procedure recommended for the bacteriological examination of salmonella.

(a) *For egg- and meat-type chickens, waterfowl, exhibition poultry, and game birds.* All reactors to the Pullorum-Typhoid tests, up to 25 birds, and birds from *Salmonella enteritidis* (SE) positive environments should be cultured in accordance with both the direct (paragraph (a)(1)) and selective enrichment (paragraph (a)(2)) procedures described in this section. Careful aseptic technique should be used when collecting all tissue samples.

(1) Direct culture (refer to illustration 1). Grossly normal or diseased liver, heart, pericardial sac, spleen, lung, kidney, peritoneum, gallbladder, oviduct, misshapen ova or testes, inflamed or unabsorbed yolk sac, and other visibly pathological tissues where purulent, necrotic, or proliferative lesions are seen (including cysts, abscesses, hypopyon, and inflamed serosal surfaces) should be sampled for direct culture using either flamed wire loops or sterile swabs. Since some strains may not dependably survive and grow in certain selective media, inoculate non-selective plates (such as

blood or nutrient agar) and selective plates (such as MacConkey [MAC] and brilliant green novobiocin [BGN] for pullorum-typhoid and MAC, BGN, and xylose-lysine-tergitol 4 [XLT 4] for SE). After inoculating the plates, pool the swabs from the various organs into a tube of non-selective broth (such as nutrient or brain-heart infusion). Refer to illustration 1 for recommended bacteriological recovery and identification procedures.[7] Proceed immediately with collection of organs and tissues for selective enrichment culture.

(2) Selective enrichment culture (refer to illustration 1). Collect and culture organ samples separately from intestinal samples, with intestinal tissues collected last to prevent cross-contamination. Samples from the following organs or sites should be collected for culture in selective enrichment broth:

(i) Heart (apex, pericardial sac, and contents if present);

(ii) Liver (portions exhibiting lesions or, in grossly normal organs, the drained gallbladder and adjacent liver tissues);

(iii) Ovary-Testes (entire inactive ovary or testes, but if ovary is active, include any atypical ova);

(iv) Oviduct (if active, include any debris and dehydrated ova);

(v) Kidneys and spleen; and

(vi) Other visibly pathological sites where purulent, necrotic, or proliferative lesions are seen.

(3) From each bird, aseptically collect 10 to 15 grams of each organ or site listed in paragraph (a)(2) of this section. Mince, grind, or blend and place in a sterile plastic bag. All the organs or sites listed in paragraph (a)(2) of this section from the same bird may be pooled into one bag. Do not pool samples from more than one bird. Add sufficient tetrathionate enrichment broth to give a 1:10 (sample to enrichment) ratio. Follow the procedure outlined in illustration 1 for the isolation and identification of *Salmonella.*

(4) From each bird, aseptically collect 10 to 15 grams of each of the following parts of the digestive tract: Crop wall, duodenum, jejunum (including remnant of yolk sac), both ceca, cecal tonsils, and rectum-cloaca. Mince, grind, or blend tissues and pool them into a sterile plastic bag. Do not pool tissues from different birds into the same sample. Add sufficient tetrathionate enrichment broth to give a 1:10 (sample to enrichment) ratio. Follow the procedure outlined in illustration 1 for the isolation and identification of *Salmonella.*

(5) After selective enrichment, inoculate selective plates (such as MAC and BGN for pullorum-typhoid and MAC, BGN, and XLT 4) for SE. Inoculate three to five *Salmonella*-suspect colonies from plates into triple sugar iron (TSI) and lysine iron agar (LIA) slants. Screen colonies by serological (i.e., serogroup) and biochemical procedures (e.g., the Analytical Profile Index for Enterobacteriaceae [API]) as shown in illustration 1. As a supplement to screening three to five *Salmonella*-suspect colonies on TSI and LIA slants, a group D colony lift assay may be utilized to signal the presence of hard-to-detect group D *Salmonella* colonies on agar plates.

(6) If the initial selective enrichment is negative for *Salmonella,* a delayed secondary enrichment (DSE) procedure is used. Leave the tetrathionate-enriched sample at room temperature for 5 to 7 days. Transfer 1 mL of the culture into 10 mL of fresh tetrathionate enrichment broth, incubate at 37 C for 20 to 24 hours, and plate as before.

(7) Serogroup all isolates identified as salmonellae and serotype all serogroup D1 isolates. Phage-type all SE isolates.

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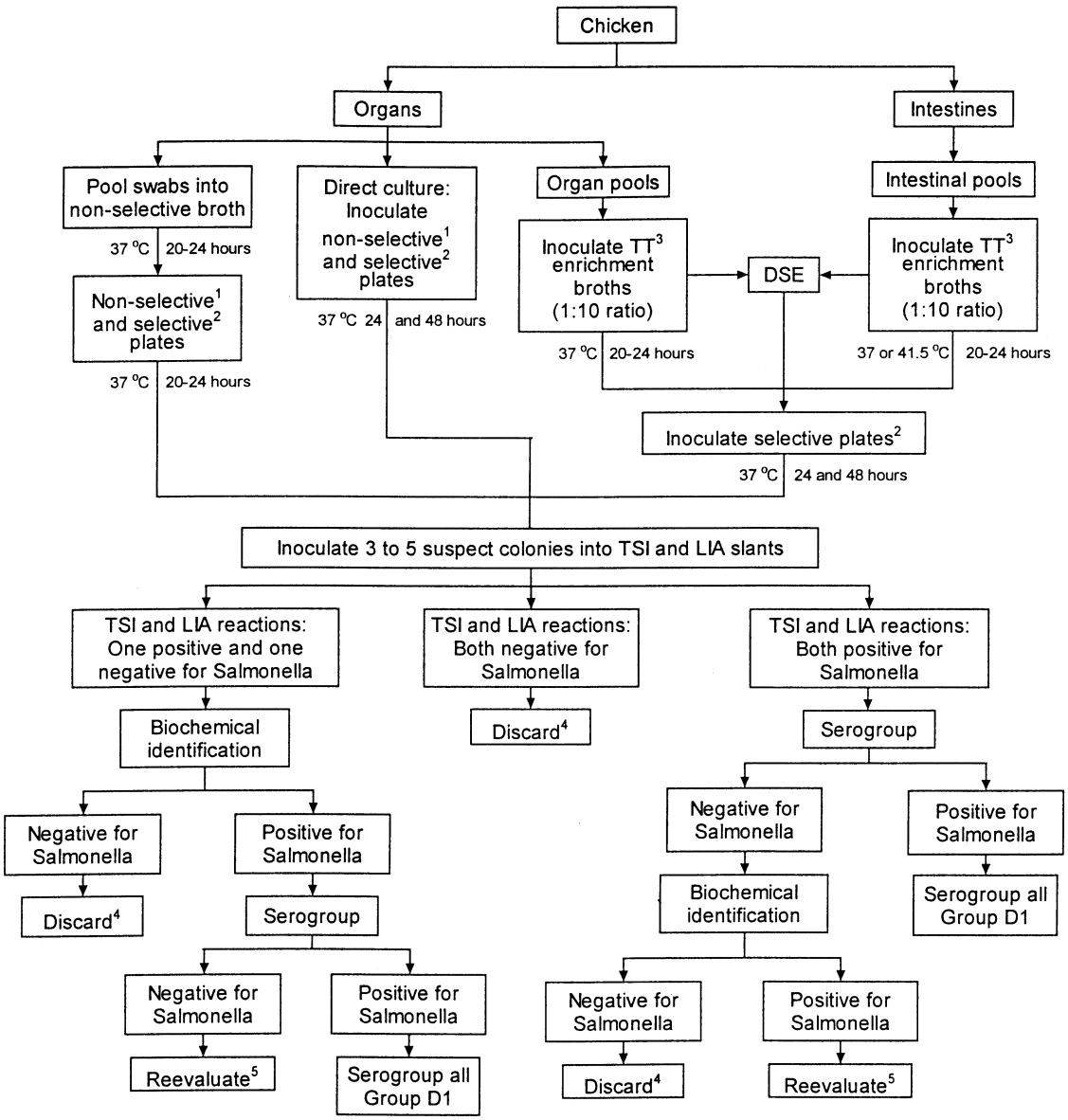
[7] Biochemical identification charts may be obtained from ''A Laboratory Manual for the Isolation and Identification of Avian Pathogens,'' chapter 2, Salmonellosis. Fourth edition, 1998, American Association of Avian Pathologists, Inc., Kennett Square, PA 19348.

Illustration 1.—Procedure for culturing Pullorum-Typhoid reactors and birds from SE-positive environments.



1. Non-selective plates such as blood or nutrient agar.
2. Selective plates such as MacConkey, Brilliant Green Novobiocin (BGN) for pullorum-typhoid reactors and MacConkey, BGN, and xylose-lysine tergitol 4 (XLT 4) for SE.
3. Tetrathionate enrichment broth.
4. Reevaluate if epidemiologic, necropsy, or other information indicates the presence of an unusual strain of Salmonella.
5. If biochemical identification and serogroup procedures are inconclusive, restreak original colony onto non-selective plating media to check for purity. Repeat biochemical and serology tests.

BILLING CODE 3410–34–C

* * * * *

19. Section 147.12 is amended as follows:

a. By revising the section heading.

b. In paragraph (a), the introductory text, by removing the word ''shall'' and adding the word ''should'' in its place.

c. In paragraph (a)(1)(i), by removing the words ''(Hajna or Mueller-Kauffmann Tetrathionate Brilliant Green)''.

d. In paragraph (a)(3), the introductory text, by adding the words ''(or commercially available sponges designed for this purpose)'' immediately before the words '', a key component''.

e. In paragraph (a)(3)(ii), by removing the words ''paragraph (a)(1)'' and adding the words ''paragraph (a)(3)(i)'' in their place.

f. In paragraph (a)(3)(iv), by revising the first two sentences.

g. By adding new paragraphs (a)(4) and (a)(5).

h. By removing paragraph (c), redesignating paragraph (b) as paragraph (c), and adding a new paragraph (b).

i. In the introductory text of newly redesignated paragraph (c)(1), by removing the citation ''(b)(1)(i) or (b)(1)(ii)'' and adding the citation ''(c)(1)(i) or (c)(1)(ii)'' in its place.

j. In the introductory text of newly redesignated paragraph (c)(2), by removing the citation ''(b)(2)(i)'' and adding the citation ''(c)(2)(i)'' in its place.

§ 147.12 Procedures for collection, isolation, and identification of Salmonella from environmental samples, cloacal swabs, chick box papers, and meconium samples.

* * * * *

(a) * * *

(3) * * *

(iv) *Nest box or egg belt sampling technique.* Collect nest box or egg belt samples by using two 3-by-3 inch sterile gauze pads premoistened with double-strength skim milk and wiping the pads over assorted locations in about 10 percent of the total nesting area or the egg belt. * * *

* * * * *

(4) *Chick box papers.* Samples from chick box papers may be bacteriologically examined for the presence of *Salmonella.* The Plan participant may collect the samples in accordance with paragraph (a)(4)(i) of this section or submit chick box papers directly to a laboratory in accordance with paragraph (a)(4)(ii) of this section. It is important that the paper be removed from the chick box before the box is placed in the brooding house.

(i) Instructions for collecting samples from chick box papers:

(A) Collect 1 chick box paper for each 10 boxes of chicks placed in a house and lay the papers on a clean surface.

(B) Clean your hands and put on latex gloves. Do not apply disinfectant to the gloves. Change gloves after collecting samples from 10 chick box papers or any time a glove is torn.

(C) Saturate a sterile 3-by-3 inch gauze pad with double-strength skim milk (see footnote 12 to this section) and rub the pad across the surface of five chick box papers. Rub the pad over at least 75 percent of each paper and use sufficient pressure to rub any dry meconium off the paper. Pouring a small amount of double-strength skim milk (1 to 2 tablespoons) on each paper will make it easier to collect samples.

(D) After collecting samples from 10 chick box papers, place the two gauze pads used to collect the samples (i.e., one pad per 5 chick box papers) into an 18 oz. Whirl-Pak bag and add 1 to 2 tablespoons of double-strength skim milk.

(E) Promptly refrigerate the Whirl-Pak bags containing the samples and transport them, on ice or otherwise refrigerated, to a laboratory within 48 hours of collection. The samples may be frozen for longer storage if the Plan participant is unable to transport them to a laboratory within 48 hours.

(ii) The Plan participant may send chick box papers directly to a laboratory, where samples may be collected as described in paragraph (a)(4)(i) of this section. To send chick box papers directly to a laboratory:

(A) Collect 1 chick box paper for each 10 boxes of chicks placed in a house and place the chick papers immediately into large plastic bags and seal the bags.

(B) Place the plastic bags containing the chick box papers in a clean box and transport them within 48 hours to a laboratory. The plastic bags do not require refrigeration.

(iii) The laboratory must follow the procedure set forth in paragraph (a)(5) of this section for testing chick meconium for *Salmonella.*

(5) *Chick meconium testing procedure for Salmonella.*

(i) Record the date, source, and flock destination on the ''Meconium Worksheet.''

(ii) Shake each plastic bag of meconium until a uniform consistency is achieved.

(iii) Transfer a 25 gm sample of meconium to a sterile container. Add 225 mL of a preenrichment broth to each sample (this is a 1:10 dilution), mix gently, and incubate at 37 °C for 18–24 hours.

(iv) Enrich the sample with selective enrichment broth for 24 hours at 42 °C.

(v) Streak the enriched sample onto brilliant green novobiocin (BGN) agar and xylose-lysine-tergitol 4 (XLT4) agar.

(vi) Incubate both plates at 37 °C for 24 hours and process suspect *Salmonella* colonies according to paragraph (b) of this section.

(b) *Isolation and identification of Salmonella.* Either of the two enrichment procedures in this paragraph may be used.

(1) Tetrathionate enrichment with delayed secondary enrichment (DSE):

(i) Add tetrathionate enrichment broth to the sample to give a 1:10 (sample to enrichment) ratio. Incubate the sample at 37 or 41.5 °C for 20 to 24 hours as shown in illustration 2.

(ii) After selective enrichment, inoculate selective plates (such as BGN and XLT4). Incubate the plates at 37 °C for 20 to 24 hours. Inoculate three to five *Salmonella*-suspect colonies from the plates into triple sugar iron (TSI) and lysine iron agar (LIA) slants. Incubate the slants at 37 °C for 20 to 24 hours. Screen colonies by serological (i.e., serogroup) and biochemical (e.g., API) procedures as shown in illustration 2. As a supplement to screening three to five *Salmonella*-suspect colonies on TSI and LIA slants, a group D colony lift assay may be utilized to signal the presence of hard-to-detect group D *Salmonella* colonies on agar plates.

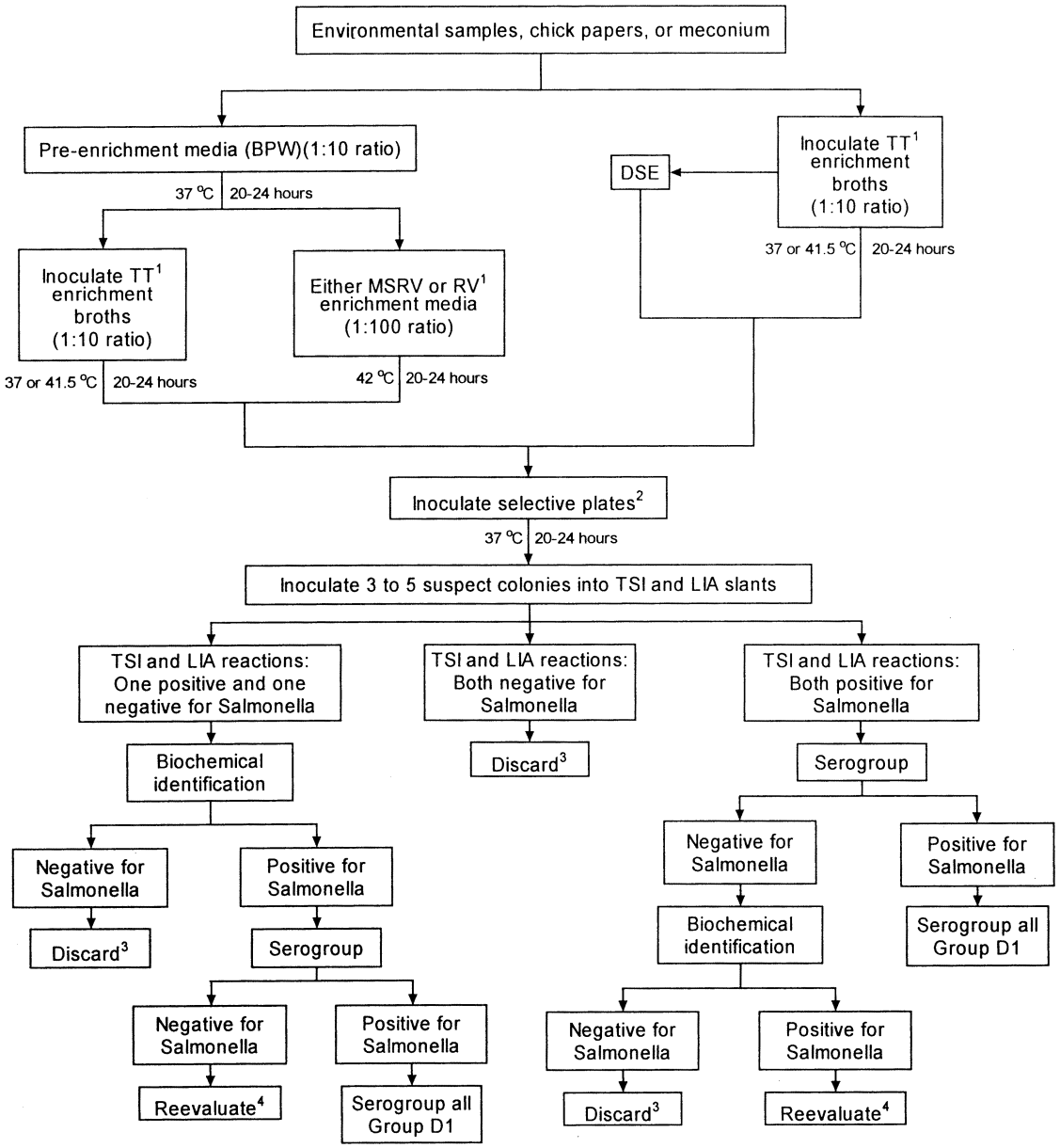
(iii) If the initial selective enrichment is negative for *Salmonella*, use a DSE procedure. Leave the original tetrathionate-enriched sample at room temperature for 5 to 7 days. Transfer 1 mL of the culture into 10 mL of fresh tetrathionate enrichment broth, incubate at 37 °C for 20 to 24 hours, and plate as in paragraph (b)(1)(ii) of this section.

(iv) Serogroup all isolates identified as *Salmonella* and serotype all serogroup D isolates. Phage-type all *Salmonella enteritidis* isolates.

(2) Pre-enrichment followed by selective enrichment. (See illustration 2.)

BILLING CODE 3410–34–U

Illustration 2.—Culture procedures for environmental samples, chick papers, or meconium.



1. Tetrathionate enrichment broth, e.g., Rappaport-Vassiliades (RV) or modified semisolid RV (MSRV).
2. Selective plates such Brilliant Green Novobiocin (BGN) or xylose-lysine tergitol 4 (XLT 4).
3. Reevaluate if epidemiologic, necropsy, or other information indicates the presence of an unusual strain of Salmonella.
4. If biochemical identification and serogroup procedures are inconclusive, restreak original colony onto non-selective plating media to check for purity. Repeat biochemical and serology tests.

BILLING CODE 3410–34–C

* * * * *

§ 147.18 [Removed]

20. Section 147.18 is removed.

21. Section 147.22 is revised to read as follows:

§ 147.22 Hatching egg sanitation.

Hatching eggs should be collected from the nests at frequent intervals and, to aid in the prevention of contamination with disease-causing organisms, the following practices should be observed:

(a) Cleaned and disinfected containers, such as egg flats, should be used in collecting the nest eggs for hatching. Egg handlers should thoroughly wash their hands with soap and water prior to and after egg collection. Clean outer garments should be worn.

(b) Dirty eggs should not be used for hatching purposes and should be collected in a separate container from the nest eggs. Slightly soiled nest eggs may be gently dry cleaned by hand.

(c) Hatching eggs should be stored in a designated egg room under conditions that will minimize egg sweating. The egg room walls, ceiling, floor, door, heater, and humidifier should be cleaned and disinfected after every egg pickup. Cleaning and disinfection procedures should be as outlined in § 147.24.

(d) The egg processing area should be cleaned and disinfected daily.

(e) Effective rodent and insect control programs should be implemented.

(f) The egg processing building or area should be designed, located, and constructed of such materials as to assure that proper egg sanitation procedures can be carried out, and that the building itself can be easily, effectively, and routinely sanitized.

(g) All vehicles used for transporting eggs or chicks/poults should be cleaned and disinfected after use. Cleaning and disinfection procedures should be as outlined in § 147.24.

22. Section 147.23 is revised to read as follows:

§ 147.23 Hatchery sanitation.

An effective program for the prevention and control of *Salmonella* and other infections should include the following measures:

(a) An effective hatchery sanitation program should be designed and implemented.

(b) The hatchery building should be arranged so that separate rooms are provided for each of the four operations: Egg receiving, incubation and hatching, chick/poult processing, and egg tray and hatching basket washing. Traffic and airflow patterns in the hatchery should be from clean areas to dirty areas (i.e., from egg room to chick/poult processing rooms) and should avoid tracking from dirty areas back into clean areas.

(c) The hatchery rooms, and tables, racks, and other equipment in them should be thoroughly cleaned and disinfected frequently. All hatchery wastes and offal should be burned or otherwise properly disposed of, and the containers used to remove such materials should be cleaned and sanitized after each use.

(d) The hatching compartments of incubators, including the hatching trays, should be thoroughly cleaned and disinfected after each hatch.

(e) Only clean eggs should be used for hatching purposes.

(f) Only new or cleaned and disinfected egg cases should be used for transportation of hatching eggs. Soiled egg case fillers should be destroyed.

(g) Day-old chicks, poults, or other newly hatched poultry should be distributed in clean, new boxes and new chick papers. All crates and vehicles used for transporting birds should be cleaned and disinfected after each use.

23. Section 147.24 is amended as follows:

a. In paragraph (a), the introductory text, by removing the words ‘‘, hatchery rooms and delivery trucks’’.

b. By revising paragraphs (a)(1) and (a)(3).

c. In paragraph (b), the introductory text, by adding the words ‘‘and hatchery rooms’’ immediately after the word ‘‘hatchers’’.

d. By revising paragraph (b)(1).

e. In paragraph (b)(3), by removing the word ‘‘sanitized’’ and adding the word ‘‘disinfected’’ in its place.

f. By redesignating paragraph (c) as paragraph (b)(4) and adding a new paragraph (c).

§ 147.24 Cleaning and disinfecting.

* * * * *

(a) * * *

(1) Remove all live ‘‘escaped’’ and dead birds from the building. Blow dust from equipment and other exposed surfaces. Empty the residual feed from the feed system and feed pans and remove it from the building. Disassemble feeding equipment and dump and scrape as needed to remove any and all feed cake and residue. Clean up spilled feed around the tank and clean out the tank. Rinse down and wash out the inside of the feed tank to decontaminate the surfaces and allow to dry.

* * * * *

(3) Wash down the entire inside surfaces of the building and all the installed equipment such as curtains, ventilation ducts and openings, fans, fan housings and shutters, feeding equipment, watering equipment, etc. Use high pressure and high volume water spray (for example 200 pounds per square inch and 10 gallons per minute or more) to soak into and remove the dirt to decontaminate the building. Scrub the walls, floors, and equipment with a hot soapy water solution. Rinse to remove soap.

* * * * *

(b) * * *

(1) Use cleaning agents and sanitizers that are registered by the U.S. Environmental Protection Agency as germicidal, fungicidal, pseudomonocidal, and tuberculocidal. Use manufacturer’s recommended dilution. Remove loose organic debris by sweeping, scraping, vacuuming, brushing, or scrubbing, or by hosing surface with high pressure water (for example 200 pounds per square inch and 10 gallons per minute or more). Remove trays and all controls and fans for separate cleaning. Use hot water (minimum water temperature of 140 °F) for cleaning hatching trays and chick separator equipment. Thoroughly wet the ceiling, walls, and floors with a stream of water, then scrub with a hard bristle brush. Use a cleaner/sanitizer that can penetrate protein and fatty deposits. Allow the chemical to cling to treated surfaces at least 10 minutes before rinsing off. Manually scrub any remaining deposits of organic material until they are removed. Rinse until there is no longer any deposit on the walls, particularly near the fan opening, and apply disinfectant. Use a clean and sanitized squeegee to remove excess water, working down from ceilings to walls to floors and being careful not to recontaminate cleaned areas.

* * * * *

(c) The egg and chick/poult delivery truck drivers and helpers should use the following good biosecurity practices while picking up eggs or delivering chicks/poults:

(1) Spray truck tires thoroughly with disinfectant before leaving the main road and entering the farm driveway.

(2) Put on sturdy, disposable plastic boots or clean rubber boots before getting out of the truck cab. Put on a clean smock or coveralls and a hairnet before entering the poultry house.

(3) After loading eggs or unloading chicks/poults, remove the dirty smock/coveralls and place into plastic garbage bag before loading in the truck. Be sure to keep clean coveralls separate from dirty ones.

(4) Reenter the cab of the truck and remove boots before placing feet onto floorboards. Remove hairnet and leave with disposable boots on farm.

(5) Sanitize hands using appropriate hand sanitizer.

(6) Return to the hatchery or go to the next farm and repeat the process.

§ 147.25 [Amended]

24. Section 147.25 is amended by removing the words ''as an essential'' and adding the words ''or rooms as a'' in their place.

25. Section 147.26 is amended as follows:

a. By revising paragraph (a).

b. In paragraph (b)(5), by removing the word ''Keep'' and adding the words ''Establish a rodent control program to keep'' in its place.

c. By removing paragraph (b)(10) and redesignating paragraphs (b)(11) through (b)(15) as paragraphs (b)(10) through (b)(14), respectively.

§ 147.26 Procedures for establishing isolation and maintaining sanitation and good management practices for the control of Salmonella and Mycoplasma infections.

(a) The following procedures are required for participation under the U.S. Sanitation Monitored, U.S. M. Gallisepticum Clean, U.S. M. Synoviae Clean, U.S. S. Enteritidis Monitored, and U.S. S. Enteritidis Clean classifications:

(1) Allow no visitors except under controlled conditions to minimize the introduction of *Salmonella* and *Mycoplasma*. Such conditions must be approved by the Official State Agency and the Service;

(2) Maintain breeder flocks on farms free from market birds and other domesticated fowl. Follow proper isolation procedures as approved by the Official State Agency;

(3) Dispose of all dead birds by locally approved methods.

* * * * *

26. In § 147.43, paragraph (b) is revised to read as follows:

§ 147.43 General Conference Committee.

* * * * *

(b) The regional committee members and their alternates will be elected by the official delegates of their respective regions, and the member-at-large will be elected by all official delegates. There must be at least two nominees for each position, the voting will be by secret ballot, and the results will be recorded. At least one nominee from each region must be from an underrepresented group (minorities, women, or persons with disabilities). The process for soliciting nominations for regional committee members will include, but not be limited to: Advertisements in at least two industry journals, such as the newsletters of the American Association of Avian Pathologists, the National Chicken Council, the United Egg Producers, and the National Turkey Federation; a Federal Register announcement; and special inquiries for nominations from universities or colleges with minority/disability enrollments and faculty members in poultry science or veterinary science.

* * * * *

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–4264 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–203–AD; Amendment 39–12663; AD 2002–04–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, that requires repetitive inspections for cracking of the upper chord of the rear spar of the wing, and corrective action, if necessary. This action is necessary to find and fix such cracking, which could result in fuel leaking through the cracks, reduced structural integrity of the wing, and separation of the wing from the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective April 1, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 1, 2002.

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

FOR FURTHER INFORMATION CONTACT: Duong Tran, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2773; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 727 series airplanes was published in the **Federal Register** on November 28, 2001 (66 FR 59384). That action proposed to require repetitive inspections for cracking of the upper chord of the rear spar of the wing, and corrective action, if necessary.

Comments

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

Conclusion

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

Cost Impact

There are approximately 1,375 Boeing Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 912 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane to accomplish the required inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $656,640, or $720 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–04–06 Boeing: Amendment 39–12663. Docket 2001–NM–203–AD.

Applicability: All Model 727 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To find and fix cracking of the upper chord of the rear spar of the wing, which could result in fuel leaking through the cracks, reduced structural integrity of the wing, and separation of the wing from the airplane, accomplish the following:

Repetitive Inspections

(a) Prior to the accumulation of 20,000 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever is later, do detailed visual and high frequency eddy current inspections for cracking of the upper chord of the rear spar of the wing, according to Boeing Service Bulletin 727–57–0184, dated August 16, 2001. The detailed visual inspection must include an inspection of the surface finish for damage or deterioration (discoloration, blistering, raised or rough areas), as described in the service bulletin. Repeat all inspections every 4,500 flight cycles.

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

Repairs

(b) If any cracking, damage, or deterioration is found during any inspection required by paragraph (a) of this AD: Before further flight, do paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) If any damage or deterioration but no cracking is found, remove the finish, blend the area smooth, and reapply the finish according to Boeing Service Bulletin 727–57–0184, dated August 16, 2001.

(i) If the blend-out is within the limits specified in Section 57–10–1 of the Boeing 727 Structural Repair Manual (SRM), no further action is required by this paragraph.

(ii) If the blend-out is outside the limits specified in Section 57–10–1 of the Boeing 727 SRM, before further flight, repair according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(2) If any cracking is found, repair according to a method approved by the Manager, Seattle ACO, or according to data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) Except as provided by paragraphs (b)(1)(ii) and (b)(2) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 727–57–0184, dated August 16, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on April 1, 2002.

Issued in Renton, Washington, on February 14, 2002.

Charles D. Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–4112 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 40, 41, and 42

[Public Notice 3921]

Visas: Documentation of Nonimmigrants and Immigrants Under the Immigration and Nationality Act, As Amended: Fingerprinting; Access to Criminal History Records; Conditions for Use of Criminal History Records

ACTION: Interim rule, with request for comments.

SUMMARY: Recent legislation, commonly known as the USA Patriot Act, requires the Federal Bureau of Investigation (FBI) to give the Department access to certain of its criminal history record and other databases, conditioned in certain instances upon the Department providing an applicant's fingerprints to the FBI. This rule amends the Department's regulations pertaining to the fingerprinting of nonimmigrants and immigrants. It also establishes new regulations that set forth the conditions for the use, protection, dissemination and destruction of any criminal history or other records provided to the Department by the FBI.

DATES: Effective date: This interim final rule is effective on February 25, 2002.

Comment date: Written comments must be submitted on or before April 26, 2002.

ADDRESSES: Submit comments in duplicate to the Chief, Legislation and Regulations Division, Visa Services, Department of State, 20520–0106, Comments may also be forwarded via e-mail at *VisaRegs@state.gov.* or faxed at (202) 663–3898.

FOR FURTHER INFORMATION CONTACT: Nancy Altman, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, (202) 261–8040.

SUPPLEMENTARY INFORMATION:

What Is the Authority for This Rule?

On October 26, 2001, the President signed into law the ''Uniting and Strengthening America Act by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism'' (USA Patriot Act), Pub. L. 107–56. [Section 403 of the USA Patriot Act, in relevant part, amended section 105 of the INA by inserting ''(a)'' after ''Sec. 105 '' and by adding the language of section 403 as subpart ''(b)'' in that section.]

Section 403 of the USA Patriot Act requires the FBI to provide the Department access to certain criminal history record and other databases contained in the National Crime Information Center (NCIC) as mutually agreed upon by the Attorney General and the Department. The purpose of this provision is to give the Department access to an applicant's criminal history or other record indexed in a specified NCIC database and to place conditions on the Department's use of database information it receives from the FBI.

How Will the Department Access NCIC Criminal History Records?

Access to NCIC databases is to be provided by means of criminal history record extracts for placement in the Department's automated Lookout database. All visa applicants and applicants for admission to the United States will be subject to name-check queries against the extract information for the purpose of determining whether an applicant may have a criminal history or other record. The extracts of the records are to be provided without charge and are to be updated at intervals mutually agreed upon by the FBI and the Department. At the time of receipt of an updated criminal history extract, the Department will destroy previously provided extracts contained in its database. Access to an extract does not entitle the Department to obtain an applicant's corresponding automated full content criminal history record. The full content of a criminal history record can only be obtained by submitting the applicant's fingerprints to the FBI with the appropriate processing fee.

Which Applicants Must Be Fingerprinted?

When extract information indicates that an applicant may have a criminal history record indexed in an NCIC database, the Department will require the applicant to submit fingerprints and pay the specified fee fingerprint processing fee. The Department will forward the fingerprints and the fee to the FBI for the purpose of confirming whether or not the criminal history or other record in the NCIC database belongs to the applicant. If an applicant's fingerprints confirm an NCIC criminal history record, the FBI will forward the automated full content criminal history record to the Department.

Are Limitations Placed On the Department's Use of NCIC Criminal History Records?

NCIC criminal history record information (which includes the extract data associated with such information) received by the Department is considered law enforcement sensitive and is subject to conditions for its use and procedures for its destruction. Section 403 requires the Department:

- To limit the re-dissemination of criminal history records received from the FBI;
- To use any criminal history information it receives solely to determine whether or not to issue a visa to an alien or to admit the alien to the United States;
- To ensure the security, confidentiality, and destruction of such information; and
- To protect any privacy rights of individuals who have NCIC criminal history records.

Because NCIC–III and other FBI criminal history records received by the Department are law enforcement sensitive, only authorized consular personnel with visa processing responsibilities may have access to an applicant's criminal history record. To protect applicants' privacy, the Department must secure all NCIC criminal history or other records, automated or otherwise, to prevent access by unauthorized persons. Unless otherwise mutually agreed upon by the Attorney General and the Secretary of State, NCIC–III and other FBI criminal history records may be used solely to determine whether or not to issue a visa to an alien or to admit an alien to the United States. At the time the Department receives updated NCIC criminal history extracts from the FBI, the Department will delete the outdated NCIC criminal history extracts from its database/s.

How Is the Department Amending Its Regulations?

The Department is amending its regulations by adding a new section at 22 CFR 40.5 ''Limitations on the use of NCIC criminal history record information.'' The new section establishes the conditions for the use of applicants' criminal history record information by the Department.

The Department is also amending its regulations at section 22 CFR 41.105(b) by adding a new paragraph (2) ''NCIC name check response.'' Paragraph (2) of subsection (b) states the requirement for the fingerprinting of any nonimmigrant applicant whose name check response indicates the possibility of a criminal history record indexed in the NCIC databases.

The Department is further amending its regulations at section 22 CFR 42.67(c) ''Fingerprinting'' by adding a new paragraph (2) ''NCIC name check response.'' Paragraph (2) of subsection (c) states the requirement for fingerprinting any immigrant applicant

whose name check response indicates the possibility of a criminal history record indexed in the NCIC databases.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department's implementation of this regulation as an interim rule is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The USA Patriot Act, signed into law on October 26, 2001, requires that final regulations be promulgated prior to the Department's receipt of NCIC data but no later than four months after the date of enactment. The Department has determined there to be insufficient time to issue a proposed rule with a request for comments.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices: or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Department does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section (3)(f), Regulatory planning and Review. Therefore, in accordance with the letter to the Department of State of February 4, 1994, from the Director of the Office of Management and Budget, it does not require review by the Office of Management and Budget.

Executive Order 13132

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements.

List of Subjects

22 CFR Part 40

Aliens, Nonimmigrants and Immigrants, Passports and visas.

22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas.

22 CFR Part 42

Aliens, Immigrants, Passports and visas.

Accordingly, the Department amends 22 CFR Parts 40, 41, and 42 to read as follows:

PART 40—[AMENDED]

1. The authority citation for Part 40 shall continue to read:

Authority: 8 U.S.C. 1104.

2. Amend Part 40 by adding a new § 40.5 to read as follows:

§ 40.5 Limitations on the use of National Crime Information Center (NCIC) criminal history information.

(a) *Authorized access.* The FBI's National Crime Information Center (NCIC) criminal history records are law enforcement sensitive and can only be accessed by authorized consular personnel with visa processing responsibilities.

(b) *Use of information.* NCIC criminal history record information shall be used solely to determine whether or not to issue a visa to an alien or to admit an alien to the United States. All third party requests for access to NCIC criminal history record information shall be referred to the FBI.

(c) *Confidentiality and protection of records.* To protect applicants' privacy, authorized Department personnel must secure all NCIC criminal history records, automated or otherwise, to prevent access by unauthorized persons. Such criminal history records must be destroyed, deleted or overwritten upon receipt of updated versions.

PART 41—[AMENDED]

3. The authority citation for Part 41 shall continue to read as follows:

Authority: 8 U.S.C, 1104; Pub. L. 105–277, 112 Stat. 2681 *et seq.*

4. Amend § 41.105 by redesignating paragraph (b) as (b)(1) and adding a new paragraph (b)(2) to read as follows:

§ 41.105 Supporting documents and fingerprinting.

* * * * *

(b) * * *

(2) *NCIC name check response.* When an automated database name check query indicates that a nonimmigrant applicant may have a criminal history record indexed in an NCIC database, the applicant shall be required to have a set of fingerprints taken in order for the Department to obtain such record. The applicant must pay the fingerprint-processing fee as indicated in the schedule of fees found at 22 CFR part 22.1.

PART 42—[AMENDED]

5. The authority citation for Part 42 shall continue to read:

Authority: 8 U.S.C. 1104

6. Amend § 42.67 by redesignating paragraph (c) as (c)(1) and adding a new paragraph (c)(2) to read as follows:

§ 42.67 Execution of application, registration, and fingerprinting.

* * * * *

(c) * * *

(2) *NCIC name check response.* When an automated database name check query indicates that an immigrant applicant may have a criminal history record indexed in an NCIC database, the applicant shall be required to have a set of fingerprints taken in order for the Department to obtain such record. The applicant must pay the fingerprint processing fee as indicated in the schedule of fees found at 22 CFR 22.1.

Dated: February 15, 2002.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, U.S. Department of State.

[FR Doc. 02–4541 Filed 2–22–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–018]

Drawbridge Operation Regulations: Hackensack River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Witt-Penn (Route 7) Bridge, mile 3.1, across the Hackensack River at Jersey City, New Jersey. This temporary deviation will allow the bridge to remain closed to navigation from 9 a.m. on March 5, 2002 through 6 a.m. on March 7, 2002. This temporary deviation is necessary to facilitate repairs at the bridge.

DATES: This deviation is effective from March 5, 2002 through March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION: The Witt-Penn (Route 7) Bridge has a vertical clearance in the closed position of 35 feet at mean high water and 40 feet at mean low water. The existing regulations are listed at 33 CFR 117.5.

The bridge owner, New Jersey Department of Transportation, has requested a temporary deviation from the drawbridge operating regulations to facilitate necessary maintenance, power and communication cable replacement, at the bridge. The nature of the required repairs will require the bridge to remain in the closed position.

During this deviation the bridge will not open for vessel traffic from 9 a.m. on March 5, 2002 through 6 a.m. on March 7, 2002.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: February 13, 2002.

G.N. Naccara,

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

[FR Doc. 02–4416 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–019]

Drawbridge Operation Regulations: Hampton River, NH

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the SR1A Bridge, mile 0.0, across the Hampton River in New Hampshire. This deviation from the regulations, effective from February 20, 2002 through March 31, 2002, allows the bridge to remain in the closed position for vessel traffic. This temporary deviation is necessary to facilitate scheduled maintenance repairs at the bridge.

DATES: This deviation is effective from February 20, 2002 through March 31, 2002.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The existing drawbridge operating regulations are listed at 33 CFR 117.697.

The bridge owner, New Hampshire Department of Transportation (NHDOT), requested a temporary deviation from the drawbridge operating regulations to facilitate necessary structural repairs at the bridge.

This deviation to the operating regulations, effective from February 20, 2002 through March 31, 2002, allows the SR1A Bridge to remain in the closed position for vessel traffic. There have been only two or three opening at this bridge each year during the requested time period scheduled for these structural repairs in past years. The Coast Guard coordinated this closure with the mariners effected and no objections were received.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: February 13, 2002.

G.N. Naccara,

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

[FR Doc. 02–4415 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC67

Special Regulations; Areas of the National Park System

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is adopting this final rule to designate as snowmobile routes on NPS administered Appalachian National Scenic Trail lands, portions of snowmobile trails that are part of a State-approved network of snowmobile routes and that cross the Appalachian Trail corridor. Snowmobile use on these routes is established. The Park Manager is also provided the discretion to designate temporary snowmobile crossings in the Compendium of Superintendent's Orders.

DATES: This rule becomes effective March 27, 2002.

FOR FURTHER INFORMATION CONTACT: Pamela Underhill, Park Manager, Appalachian National Scenic Trail, National Park Service, Harpers Ferry Center, Harpers Ferry, WV 25425. Telephone 304–535–6278. Email: *Pamela_Underhill@nps.gov*.

SUPPLEMENTARY INFORMATION:

Background

The regulation designates as snowmobile routes on NPS administered Appalachian National Scenic Trail lands, portions of snowmobile trails that are part of a State-approved network of snowmobile routes that cross NPS administered lands in order to connect with other state approved routes. The regulation designates the minimum number of crossings necessary to accommodate statewide snowmobile trail networks.

The Appalachian Trail is a north-south hiking trail that stretches nearly 2,160 miles from Katahdin, Maine, to Springer Mountain, Georgia, along the crest of the Appalachian Mountains. The Trail is administered by the Secretary of the Interior through the NPS, in consultation with the Secretary of Agriculture through the U.S. Forest Service, as part of the National Trails System. Upon completion of the land protection program, the NPS will have protected approximately 800 miles of the Trail and approximately 100,000 acres of land. Because NPS administered lands are intermingled with private, local, state and other

Federal government lands, differing regulations apply and varying land uses are allowed. These agencies have become partners in the Appalachian Trail cooperative management system. The linear nature of the resource and the varied land ownership patterns require special consideration in management planning.

Generally, any motorized use along the Appalachian Trail is prohibited, including snowmobiles. However the National Trails System Act provides for limited authority for allowing snowmobile use for crossings, emergencies, and for adjacent landowners:

> The use of motorized vehicles by the general public along any national scenic trail shall be prohibited and nothing in this chapter shall be construed as authorizing the use of motorized vehicles within the natural and historical areas of the national park system, the national wildlife refuge system, the national wilderness preservation system where they are presently prohibited or on other federal lands where they are presently prohibited or on other Federal lands where trails are designated as being closed to such use by the appropriate Secretary: *Provided*, That the Secretary charged with the administration of such trail shall establish regulations which shall authorize the use of motorized vehicles when, in his judgment, such vehicles are necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights . . . (16 U.S.C. 1246 (c)).

The regulation allows limited snowmobile crossings of the Appalachian Trail while still prohibiting such use along the trail. Additionally, the limited use is consistent with the Federal government's obligations to provide access for emergencies and to owners of lands adjacent to the Trail.

36 CFR 2.18 of the NPS general regulations prohibits the use of snowmobiles in units of the National Park System except on routes designated specifically for snowmobile use. These specific routes must be authorized through promulgation of special regulations. Snowmobile use may occur only on designated routes and when the use is consistent with the park's natural, cultural, scenic and aesthetic values, safety considerations, park management objectives, and will not disturb wildlife or damage park resources. Section 2.18 establishes further procedures and criteria for the use of snowmobiles within park areas. The term ''snowmobile'' is defined in § 1.4 and conforms to the standard definition used by the International Snowmobile Industry Association. The NPS does not intend that this definition be broadly interpreted to include any other motorized or non-motorized off-road vehicles.

During the development of the NPS land protection program, the issue of continuing use of existing snowmobile crossings of the planned Trail corridor was raised by adjacent landowners, snowmobile organizations and state agencies. The NPS assured interested parties that establishment of the permanent linear trail corridor would not sever established snowmobile routes. For the purposes of this Special Regulation, established snowmobile routes are considered to be those routes in use at the time of NPS land acquisition. The NPS has worked closely with state snowmobile organizations and state agencies to identify only those routes that are part of a State-approved network of snowmobile routes.

There are a number of crossings of the Appalachian Trail corridor by established, State-approved snowmobile trails in Maine, New Hampshire, Vermont, Massachusetts and Connecticut. Most of these crossings are currently allowed by deeded right-of-way reserved by the seller or by public road right-of-way. Three State-approved snowmobile trails, two in Maine and one in Massachusetts cross lands acquired for the protection of the Appalachian Trail and would require designation. The NPS intends to designate only the State approved routes that are existing crossings of the trail corridor and part of a State network of snowmobile routes. Within the NPS corridor, snowmobile travel will be limited to the designated crossing only. Snowmobiles will not be permitted to follow the trail footpath itself. Snowmobile use of other NPS Appalachian Trail corridor lands will not be allowed.

A proposed regulation was published in the **Federal Register** on March 19, 1998 (63 FR 13383). Public comment was invited. The comment period closed May 18, 1998.

Summary of Comments Received

During the public comment period, the NPS received two letters. Both of the respondents to the proposed rule endorsed the proposed special regulation. The respondents stated that the regulation would fulfill commitments made to the snowmobile community that acquisition for the Appalachian Trail would not sever existing snowmobile routes while limiting motorized recreation within the trail corridor.

Drafting Information

The principal authors of this rulemaking are Robert W. Gray, Park Ranger, Appalachian National Scenic Trail and Dennis Burnett, Washington Office of Ranger Activities, National Park Service.

Compliance with Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Order 12866)

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

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. This rule establishes designated routes for snowmobile use across the Trail and would cause only a small economic benefit to the local communities, if any.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule supports local government and community plans for snowmobile routes that already exist.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. There are no budgetary considerations involved in this rule.

(4) This rule does not raise novel legal or policy issues. This rule codifies snowmobile use that previously existed.

Regulatory Flexibility Act

The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 *et seq.*). This rule codifies existing use of snowmobile routes and merely maintains use levels; it does not restrict or prohibit current use patterns so would not likely have any economic impact.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

a. Does not have an annual effect on the economy of $100 million or more. This rule is not expected to have any effect on the economy since the rule does not change existing uses in any way.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. No increase is expected since the rule does not change existing uses in any way.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.–based enterprises to compete with foreign–based enterprises. No effects are expected since the rule does not change existing uses in any way.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule poses no mandates on the government or private sector. The use of snowmobile routes on the Trail is a voluntary activity.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule codifies existing snowmobile use and does not have implications on lands outside the Trail.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule codifies existing snowmobile use and does not place any requirements on State governments.

Civil Justice Reform (Executive Order 12988)

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

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. In accordance with 516 DM 6, Appendix 7.4 A(10), the NPS has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to (a) increase public use to the extent of compromising the nature and character of the area or causing physical damage to it, (b) introduce incompatible uses which compromise the nature and character of the area or cause physical damage to it, (c) conflict with adjacent ownerships or land uses, or (d) cause a nuisance to adjacent owners or occupants. A Categorical Exclusion Determination has been completed.

Government-to-Government Relationship with Tribes

In accordance with Executive Order 13175 ''Consultation with Indian Tribal Governments'' (65 FR 67249) and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), and 512 DM 2, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. This rule solely affects snowmobile users who choose to use the crossing routes designated in this rule and does not have any effects on lands or entities outside the NPS.

List of Subject in 36 CFR Part 7

National parks, District of Columbia, Reporting and recordkeeping requirements

In consideration of the foregoing, 36 CFR Part 7 is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); § 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Revise § 7.100 to read as follows:

§ 7.100 Appalachian National Scenic Trail.

(a) *What activities are prohibited?*

(1) The use of bicycles, motorcycles or other motor vehicles is prohibited. The operation of snowmobiles is addressed in paragraph (b).

(2) The use of horses or pack animals is prohibited, except in locations designated for their use.

(b) *Where can I operate my snowmobile?*

(1) You may cross the Appalachian National Scenic Trail corridor by using established, State-approved snowmobile trails in Maine, New Hampshire, Vermont, Massachusetts and Connecticut that are allowed by deeded right-of-way reserved by the seller or by public road right-of-way. You may also cross National Park Service administered lands within the Appalachian National Scenic Trail corridor at the following locations:

(2) Nahmakanta Lake Spur—The spur snowmobile route that leads from Maine Bureau of Parks and Lands Debsconeag Pond Road to the southeastern shore of Nahmakanta Lake.

(3) Lake Hebron to Blanchard-Shirley Road Spur—The spur snowmobile route that leads from Lake Hebron near Monson, Maine to the Maine Interconnecting Trail System Route 85 near the Blanchard-Shirley Road.

(4) Massachusetts Turnpike to Lower Goose Pond Crossing—That part of the Massachusetts Interconnecting Trail System Route 95 from the Massachusetts Turnpike Appalachian Trail Bridge to the northeastern shore of Lower Goose Pond.

(5) Temporary crossings of National Park Service administered Appalachian Trail corridor lands may be designated by the Park Manager in the Superintendent's Compendium of Orders when designated snowmobile routes are temporarily dislocated by timber haul road closures.

(6) Maps that show the crossings of National Park Service administered lands within the Appalachian National Scenic Trail may be obtained from the Park Manager, Appalachian National Scenic Trail, Harpers Ferry Center, Harpers Ferry, West Virginia 25425.

(c) *Is powerless flight permitted?* The use of devices designed to carry persons through the air in powerless flight is allowed at times and locations designated by the Park Manager, pursuant to the terms and conditions of a permit.

Dated: February 1, 2002.

Joseph E. Doddridge,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 02–4339 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024–AC83

Special Regulations; Wrangell-St. Elias National Park and Preserve

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule amends the regulations for Wrangell-St. Elias

National Park (WRST) by adding the communities of Dot Lake, Healy Lake, Northway (including Northway, Northway Village and Northway Junction), Tanacross, and Tetlin to the park subsistence resident zone. The regulation provides for the addition of communities to park subsistence resident zones. Park subsistence resident zones include nearby areas and communities with a significant concentration of residents who are eligible to engage in subsistence activities in the park. Permanent residents of subsistence resident zone communities are allowed to participate in subsistence activities in the park without a subsistence permit.

DATES: This rule is effective March 27, 2002.

ADDRESSES: Superintendent, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573, (907) 822–7210.

FOR FURTHER INFORMATION CONTACT: Devi Sharp, Chief, Natural and Cultural Resources, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573, (907) 822–7236

SUPPLEMENTARY INFORMATION: The principal authors of this rule are Devi Sharp, Wrangell-St. Elias National Park and Preserve, Janis Meldrum and Paul Hunter, Alaska System Support Office, Anchorage, Alaska, and Kym Hall, Regulations Manager, Washington, DC.

I. Background

A proposed rule to amend 36 CFR 13.73 was published by the National Park Service (NPS) in the **Federal Register** on June 14, 2001 (66 FR 32282). The intent of this regulation change is to add five communities to the WRST subsistence resident zone in accordance with the provisions of 36 CFR 13.43(b). Section 13.43 provides for the addition and deletion of nearby communities to park subsistence resident zones in Alaska based on stated criteria in the section. The community of Northway made the first request to be added to the WRST subsistence resident zone in 1985. Subsequently four additional communities requested consideration. The request has been the subject of review and favorable recommendations by the park Subsistence Resource Commission (SRC), a federal advisory group for subsistence activities, since the initial request in 1985. After review and study, including public notice, hearing and comment, as well as environmental assessment and finding of no significant impact, the NPS has determined the five communities are qualified to be added to the park subsistence resident zone. A collateral administrative change to more clearly describe community and area boundaries is also adopted by this revised rule.

II. Responses to Public Comments

Two respondents commented on the proposed regulations during the 60-day public comment period that closed August 13, 2001. Those comments and our responses follow.

Quantity Test

Comment: A public interest organization questioned the methodology used to determine significant concentrations of subsistence users. They recommended that a ''quantity test'', in which at least 51% of community residents are shown to be eligible park subsistence users, should be used.

NPS Response: While the ''quantity test'' idea continues to be debated among interested park constituencies, including agency managers and staffers, NPS policy favors use of a more flexible methodology that considers a wider range of variables. We believe the existing methodology is consistent with the legislative mandate for subsistence activities in the Alaska parks and monuments.

Re-evaluation of Existing Communities

Comment: The public interest organization recommended that existing resident zone communities should be re-examined periodically using the ''quantity test'' and current census data to evaluate continuing eligibility. A State of Alaska agency expressed concern that the addition of new communities might lead to unnecessary re-evaluation of current resident zone communities.

NPS Response: The NPS is committed to re-evaluating resident zone communities on a case-by-case basis as necessary. A regular established schedule for reviewing resident zone communities would be costly and does not appear to be warranted at this time. The State concern for unnecessary reviews is not warranted by program experience to date.

Defer Action

Comments: The public interest organization recommended deferring action on the five new communities until resident zone evaluation methodology is revised and existing communities re-evaluated as discussed above. The State agency supported the rulemaking analysis and the addition of the five communities to the park resident zone.

NPS Response: The NPS believes the existing methodology used to apply the eligibility criteria is consistent with the authorizing legislation. While the resident zone concept has been the subject of much debate from the start, the actual application of the program criteria has been stable. The same criteria used to establish the existing resident zone communities have been uniformly applied to the five new communities. Therefore, we believe there is no reason to defer action on adding these communities to the park resident zone as proposed.

Compliance With Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Order 12866)

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

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, Local, or tribal governments or communities. The net effect of adoption of this rule would be to reduce costs by eliminating the need for subsistence users to apply for a permit. The cost saving would accrue to the affected user groups and the park through reduction of actual and potential administrative costs.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. There will be no change in the manner or substance of interaction with other agencies.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. Current and potential subsistence permittees will continue to be eligible under the resident zone system.

(4) This rule does not raise novel legal or policy issues. This rule is the direct consequence of an existing regulatory method for administering the resident zone system.

While the decision concerning adding or deleting a particular community could be controversial, the regulatory process for making the decision is well established in existing regulations.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5

U.S.C. 601 *et seq.*). The economic consequences of this rule will be to reduce administrative costs for private citizens and for the park. The permitting process that would be eliminated for the residents of five communities operates directly between individual subsistence users and the park. Therefore, there is no impact on small entities and a Regulatory Flexibility Analysis and Small Entity Compliance Guide are not required.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

a. Does not have an annual effect on the economy of $100 million or more. This rule applies to individual subsistence users. It has no applicability to small businesses.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule will reduce costs for private citizens and the federal government. It will eliminate the need for subsistence users in five communities to apply to the National Park Service for a subsistence permit. The rule will eliminate application costs to individual subsistence users such as the cost of a phone call, postage, or travel to the park office, and will reduce the current and potential administrative processing costs for the park.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule does not affect foreign trade. The interaction of the subsistence economy and the general economy is unchanged by this rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule affects the permitting process between individual subsistence users and the park. There is no involvement of small governments in this relationship. The subsistence activities affected occur only on federal public lands within a national park.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule will modify regulations in a manner that reduces the regulatory impact on private citizens, and is, therefore, excluded from EO 12630.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule applies to the permitting relationship between individual subsistence users and the park for activities occurring on federal public lands within the park. The rule does not change or impact the relationship of the park with State and local governments.

Civil Justice Reform (Executive Order 12988)

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

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required. This rule will eliminate permit applications for residents of the five affected communities, thus reducing the level of previously approved information collection (see 46 FR 31854) associated with subsistence management in the park.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. However, Environmental Assessments (EAs) and findings of no significant impact (FONSIs) have been completed and are on file in the NPS office at 2525 Gambell St., Anchorage, AK 99503 and at Wrangell-St. Elias National Park and Preserve offices in Copper Center.

Government-to-Government Relationship With Tribes

In accordance with Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments'' and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), and 512 DM 2 we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. This rule applies to individual subsistence users and will result in the elimination of the need for certain subsistence users to apply for a permit to engage in allowable subsistence activities in the park. Subsistence use on federal public lands is not managed as a tribal activity and the federal subsistence program does not apply on Native owned lands.

List of Subjects in 36 CFR Part 13

Alaska, National Parks; Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the National Park Service amends 36 CFR part 13 as follows:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

Subpart C—Special Regulations—Specific Park Areas in Alaska

1. The authority citation for Part 13 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; § 13.65 also issued under 16 U.S.C. 1a–2(h), 1361, 1531.

2. Amend § 13.73 as follows:

a. By revising the heading of paragraph (a)(1) and by adding the following entries in alphabetical order to the list of communities in paragraph (a)(1);

b. By redesignating paragraph (a)(2) as paragraph (a)(3);

c. By adding a new paragraph (a)(2);

d. By revising the heading of newly redesignated paragraph (a)(3).

The addition and revisions read as follows:

§ 13.73 Wrangell-St. Elias National Park and Preserve.

(a) *Subsistence*—(1) *What communities and areas are included in the park resident zone?*

* * * * *

Dot Lake

* * * * *

Healy Lake

* * * * *

Northway/Northway Village/Northway Junction

* * * * *

Tanacross

* * * * *

Tetlin

* * * * *

(2) *How are boundaries determined for communities added to the park resident zone?* Boundaries for communities and areas added to the park resident zone will be determined by the Superintendent after consultation with the affected area or community. If

the Superintendent and community are not able to agree on a boundary within two years, the boundary of the area or community added will be the boundary of the Census Designated Place, or other area designation, used by the Alaska Department of Labor for census purposes for that community or area. Copies of the boundary map will be available in the park headquarters office.

(3) *What communities are exempted from the aircraft prohibition for subsistence use?*

* * * * *

Dated: February 1, 2002.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–4340 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–70–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (''Corporation'') is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines as issued by the Department of Health and Human Services.

EFFECTIVE DATE: This rule is effective as of February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 750 First Street N.E., Washington, DC 20002–4250; (202) 336–8817; mcondray@lsc.gov.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act (''Act''), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Poverty Guidelines. The revised figures for 2002 set out below are equivalent to 125% of the current Poverty Guidelines as published on February 14, 2002 (67 FR 6931).

For reasons set forth above, 45 CFR 1611 is amended as follows:

PART 1611—ELIGIBILITY

1. The authority citation for Part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of Part 1611 is revised to read as follows:

Appendix A of Part 1611

LEGAL SERVICES CORPORATION 2002 POVERTY GUIDELINES*

Size of family unit	48 contiguous States and the District of Columbia [i]	Alaska [ii]	Hawaii [iii]
1	$11,075	$13,850	$12,750
2	14,925	18,663	17,175
3	18,775	23,475	21,600
4	22,625	28,288	26,025
5	26,475	33,100	30,450
6	30,325	37,913	34,875
7	34,175	42,725	39,300
8	38,025	47,538	43,725

* The figures in this table represent 125% of the poverty guidelines by family size as determined by the Department of Health and Human Services.

[i] For family units with more than eight members, add $3,850 for each additional member in a family.

[ii] For family units with more than eight members, add $4,813 for each additional member in a family.

[iii] For family units with more than eight members, add $4,425 for each additional member in a family.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–4420 Filed 2–22–02; 8:45 am]

BILLING CODE 7050–01–P

Proposed Rules

Federal Register
Vol. 67, No. 37
Monday, February 25, 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.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

General Accounting Office, Administrative Practice and Procedure, Bid Protest Regulations, Government Contracts

AGENCY: General Accounting Office.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The General Accounting Office (GAO) is reviewing, and will be revising, its Bid Protest Regulations, promulgated in accordance with the Competition in Contracting Act of 1984. GAO last revised Part 21 in 1996, and believes that developments since that time warrant updating the Regulations to reflect current practice. In connection with this effort, GAO also is soliciting comments on how its Regulations should be revised to improve the overall efficiency and effectiveness of the bid protest process at GAO.

DATES: Comments must be submitted on or before April 1, 2002.

ADDRESSES: Comments should be addressed to: John M. Melody, Assistant General Counsel, General Accounting Office, 441 G Street, NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: John M. Melody (Assistant General Counsel) or David A. Ashen (Deputy Assistant General Counsel), 202–512–9732.

SUPPLEMENTARY INFORMATION: GAO is considering revising its Bid Protest Regulations, in accordance with the Competition in Contracting Act of 1984, 31 U.S.C. 3555(a). Revisions are being considered in several areas to take into account legal developments and changes in practice that have occurred since the 1996 revision. Among the changes being considered are the following:

Section 21.0(g) currently states that a document may be filed by hand delivery, mail, or commercial carrier, and then goes on to state that parties wishing to file by facsimile transmission or other electronic means must ensure that the necessary equipment at GAO's Procurement Law Group is operational. GAO is not aware that there has been any significant confusion regarding acceptable means of filing protests and other documents. However, in light of our experience that documents commonly are filed by facsimile transmission, and our recent initiative to permit electronic filing, we believe this paragraph should clarify that filing by facsimile transmission is permitted (and, in fact, is commonplace), and that electronic filing (E-mail) of protest documents is permitted under certain circumstances.

Alternate dispute resolution (ADR) is utilized regularly by GAO as a means of resolving bid protests in an efficient, expeditious manner, but there is no language in the Bid Protest Regulations identifying it as such. Since a substantial number of cases have been found to be suitable for resolution using ADR, and it is anticipated that this will remain the case, GAO is considering adding language to reflect this practice.

Under the timeliness provisions of § 21.2(a)(2), where a debriefing is requested and required, any protest basis that is known or should have been known, either before or as a result of the debriefing, shall not be filed prior to the debriefing date offered to the protester. This rule has had the unintended result, in a very few cases, of leading protesters to delay—until after a debriefing—protesting a matter that arose during the procurement (for example, an alleged Procurement Integrity Act violation), prior to award. As it has long been GAO's view that it is beneficial to the procurement system to have alleged procurement deficiencies resolved, where possible, at the time the alleged deficiency arises, GAO is considering revising § 21.2(a)(2) to provide guidance in this area.

Section 21.5(c) provides that GAO will consider affirmative determinations of responsibility only under very limited circumstances, reflecting GAO's long held view that such determinations are so subjective that they do not lend themselves to reasoned review. In January 2001, the Court of Appeals for the Federal Circuit, in its decision *Impresa Construzioni Geom. Domenico Garufi* v. *United States,* 238 F.3d 1324 (Fed. Cir. 2001) held that affirmative determinations of responsibility by contracting officers are reviewable by the Court of Federal Claims under the ''arbitrary and capricious'' standard applicable under the Administrative Procedures Act. In light of the Federal Circuit's decision, GAO is considering whether to revise its Regulations in this area.

GAO welcomes comments on these considerations, as well as suggestions for changes to other areas of the Regulations that may enhance the efficiency and overall effectiveness of the bid protest process.

Comments may be submitted by hand delivery or mail to the address in the address line, by e-mail at *BidProtestRegs.gao.gov,* or by facsimile at 202–512–9749.

Anthony H. Gamboa,
General Counsel.

[FR Doc. 02–4337 Filed 2–22–02; 8:45 am]
BILLING CODE 1610–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM205; Special Conditions No. 25–01–05–SC]

Special Conditions: Fairchild Dornier GmbH, Model 728–100; Sudden Engine Stoppage

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Fairchild Dornier GmbH Model 728–100 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes, associated with engine size and torque load which affects sudden engine stoppage. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before April 11, 2002.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM205, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: *Docket No. NM205.* Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Groves, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1503; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this notice between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change the proposed special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On May 5, 1998, Fairchild Dornier GmbH applied for a type certificate for their new Model 728–100 airplane. The Model 728–100 airplane is a 70–85 passenger twin-engine regional jet with a maximum takeoff weight of 77,600 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Fairchild Dornier must show that the Model 728–100 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–96. Fairchild Dornier GmbH has also applied to extend the certification basis to include Amendments 25–97, 25–98, and 25–104.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model 728–100 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2). Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101(a)(1).

In addition to the applicable airworthiness regulations and special conditions, the Model 728–100 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Novel or Unusual Design Features

The Fairchild Dornier GmbH Model 728–100 airplane will incorporate novel or unusual design features involving engine size and torque load that affect sudden engine stoppage conditions. Fairchild Dornier GmbH proposes to treat the sudden engine stoppage condition resulting from structural failure as an ultimate load condition. Section 25.361(b)(1) of part 25 specifically defines the seizure torque load, resulting from structural failure, as a limit load condition.

Discussion

The limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming) has been a specific requirement for transport category airplanes since 1957. The size, configuration, and failure modes of jet engines have changed considerably from those envisioned when the engine seizure requirement of § 25.361(b) was first adopted. Current engines are much larger and are now designed with large bypass fans capable of producing much larger torque loads if they become jammed. It is evident from service history that the frequency of occurrence of the most severe sudden engine stoppage events are rare.

Relative to the engine configurations that existed when the rule was developed in 1957, the present generation of engines are sufficiently different and novel to justify issuance of special conditions to establish appropriate design standards. The latest generation of jet engines are capable of producing, during failure, transient loads that are significantly higher and more complex than the generation of engines that were present when the existing standard was developed. Therefore, the FAA has determined that special conditions are needed for the Fairchild Dornier GmbH Model 728–100 airplane.

In order to maintain the level of safety envisioned in § 25.361(b), a more comprehensive criteria is needed for the new generation of high bypass engines. The proposed special conditions would distinguish between the more common seizure events and those rarer seizure events resulting from structural failures. For these rarer but severe seizure events, the proposed criteria could allow some deformation in the engine supporting structure (ultimate load design) in order to absorb the higher energy associated with the high bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by providing a higher safety factor. The criteria for the more severe events would no longer be a pure static torque load condition, but would account for the full spectrum of transient dynamic loads developed from the engine failure condition.

Applicability

As discussed above, these special conditions are applicable to the Fairchild Dornier GmbH Model 728–100 airplane. Should Fairchild Dornier apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of section 21.101(a)(1). Fairchild Dornier has submitted applications for certification

of both increased and reduced passenger capacity derivatives of the Model 728–100 airplane. These derivative models are designated the Model 928–100 airplane and the Model 528–100 airplane, respectively. As currently proposed, these derivative models share the same design feature of a high-bypass ratio fan jet engine as the Model 728–100 airplane, and it is anticipated that they will be included in the applicability of these proposed special conditions.

Conclusion

This action affects only certain novel or unusual design features on the Fairchild Dornier GmbH Model 728–100 airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Fairchild Dornier GmbH Model 728–100 airplanes.

1. *Sudden Engine Stoppage.* In lieu of compliance with 14 CFR 25.361(b), the following special conditions apply:

a. For turbine engine installations, the engine mounts, pylons and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

(1) Sudden engine deceleration due to a malfunction which could result in a temporary loss of power or thrust.

(2) The maximum acceleration of the engine.

b. For auxiliary power unit installations, the power unit mounts and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by the each of the following:

(1) Sudden auxiliary power unit deceleration due to malfunction or structural failure.

(2) The maximum acceleration of the auxiliary power unit.

c. For engine supporting structure, an ultimate loading condition must be considered that combines 1g flight loads with the transient dynamic loads resulting from each of the following:

(1) The loss of any fan, compressor, or turbine blade.

(2) Where applicable to a specific engine design, and separately from the conditions specified in paragraph 1.(c)(1), any other engine structural failure that results in higher loads.

d. The ultimate loads developed from the conditions specified in paragraphs (c)(1) and (c)(2) above are to be multiplied by a factor of 1.0 when applied to engine mounts and pylons and multiplied by a factor of 1.25 when applied to adjacent supporting airframe structure.

Issued in Renton, Washington, on February 13, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–4411 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM212; Notice No. 25–02–04–SC]

Special Conditions: Airbus Industrie, Model A340–500 and –600 Airplanes; Sudden Engine Stoppage

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for Airbus Industries Model A340–500 and –600 airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes, associated with engine size and torque load, which affects sudden engine stoppage. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: Comments must be received on or before March 27, 2002.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM212, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM212. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Tim Backman, FAA, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2797; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comments closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expenses or delay. We may change this proposal for special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On November 14, 1996, Airbus Industries applied for an amendment to U.S. type certificate (TC) A43NM to include the new Models A340–500 and –600. These models are derivatives of the A340–300 airplane, which is approved under the same TC.

The Model A340–500 fuselage is a 6-frame stretch of the Model A340–300

and is powered by 4 Rolls Royce Trent 553 engines, each rated at 53,000 pounds of thrust. The airplane has interior seating arrangements for up to 375 passengers, with a maximum takeoff weight (MTOW) of 820,000 pounds. The Model 340–500 is intended for long-range operations and has additional fuel capacity over that of the model A340–600.

The Model A340–600 fuselage is a 20-frame stretch of the Model A340–300 and is powered by 4 Roll Royce Trend 556 engines, each rated at 56,000 pounds of thrust. The airplane has interior seating arrangements for up to 440 passengers, with a MTOW of 804,500 pounds.

Type Certificate Basis

Under the provisions of 14 CFR § 21.101, Airbus Industrie must show that the Model A340–500 and –600 airplanes meet the applicable provisions of the regulations incorporated by reference in TC A43NM or the applicable regulations in effect on the date on the date of application for the change to the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in TC A43NM are 14 CFR part 25 effective February 1, 1965, including Amendments 25–1 through 25–63 and Amendments 25–64, 25–65, 25–66, and 25–77, with certain exceptions that are not relevant to these proposed special conditions.

In addition, if the regulations incorporated by reference do not provide adequate standards with respect to the change, the applicant must comply with certain regulations in effect on the date of application for the change. The FAA has determined that the Model A340–500 and –600 airplanes must be shown to comply with 14 CFR 25–1 through 25–91, with certain FAA-allowed reversions for specific part 25 regulations to the part 25 amendment levels of the original type certification basis.

Airbus has also chosen to comply with part 25 as amended by Amendments 25–92,–93,–94,–95,–97,–98, and –104.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Airbus Industrie Model A340–500 and–600 because of a novel or unusual design feature, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Industrie Model A340–500 and –600 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with 14 CFR 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101(a)(1).

Novel or Unusual Design Features

The Airbus Model A340–500 and A340–600 airplanes will incorporate novel or unusual design features involving engine size and torque load that affect sudden engine stoppage conditions. Airbus Industrie proposes to treat the sudden engine stoppage condition resulting from structural failure as an ultimate load condition. Section 25.361(b)(1) of part 25 specifically defines the seizure torque load resulting from structural failure as a limit load condition.

Discussion

The limit engine torgue load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming) has been a specific requirement for transport category airplanes since 1957. The size, configuration, and failure modes of jet engines have changed considerably from those envisioned when the engine seizure requirement of § 25.361(b) was first adopted. Current engines are much larger and are now designed with large bypass fans capable of producing much larger torque loads if they become jammed. It is evident from service history that the frequency of occurrence of the most severe sudden engine stoppage events are rare.

Relative to the engine configurations that existed when the rule was developed in 1957, the present generation of engines are sufficiently different and novel to justify issuance of special conditions to establish appropriate design standards. The latest generation of jet engines are capable of producing, during failure, transient loads that are significantly higher and more complex than the generation of engines that were present when the existing standard was developed. Therefore, the FAA has determined that special conditions are needed for the Model A340–500 and –600 airplanes.

In order to maintain the level of safety envisioned in § 25.361(b), a more comprehensive criteria is needed for the new generation of high bypass engines. The proposed special conditions would distinguish between the more common seizure events and those rarer seizure events resulting from structural failures. For these rarer but severe seizure events, the proposed criteria could allow some deformation in the engine supporting structure (ultimate load design) in order to absorb the higher energy associated with the high bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by providing a higher safety factor. The criteria for the more severe events would no longer be a pure static torque load condition, but would account for the full spectrum of transient dynamic loads developed from the engine failure condition.

Applicability

These special conditions are applicable to the Airbus Model A340–500 and –600 ailplanes. Should Airbus Industries apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects certain novel or unusual design features on the Model A340–500 and A340–600 airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, The Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Airbus Industrie Model A340–500 and –600 airplanes.

The following special conditions are proposed in lieu of compliance with 14

CFR 25.361(b) and in lieu of the previously issued special conditions, Limit Engine Torque,'' recorded as item 9 of Special Conditions No. 25–ANM–69 (Docket No. NM–75), Airbus industrie Model A340 Series Airplanes.

1. *Sudden Engine Stoppage.*

(a) For turbine engine installations, the engine mounts, pylons and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

(1) Sudden engine deceleration due to a malfunction which could result in a temporary loss of power or thrust.

(2) The maximum acceleration of the engine.

(b) For auxiliary power unit installations, the power unit mounts and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposing by each of the following:

(1) Sudden auxiliary power unit deceleration due to malfunction or structural failure.

(2) The maxium acceleration of the auxiliary power unit.

(c) For engine supporting structure, an ultimate loading condition must be considered that combines 1g flight loads with the transient dynamic loads resulting from each of the following:

(1) The loss of any fan, compressor, or turbine blade.

(2) Where applicable to a specific engine design, and separately from the conditions specified in paragraph 1.(c)(1), any other engine structural failure that results in higher loads.

(d) The ultimate loads developed from the conditions specified in paragraphs (c)(1) and (c)(2) above are to be multiplied by a factor of 1.0 when applied to engine mounts and pylons and multiplied by a factor of 1.25 when applied to adjacent supporting airframe structure.

Issued in Renton, Washington, on February 13, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–4410 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–13–M

POSTAL SERVICE

39 CFR Part 255

Access of Persons with Disabilities to Postal Service Programs, Activities, Facilities, and Electronic and Information Technology

AGENCY: Postal Service.

ACTION: Proposed rule with request for comments.

SUMMARY: The Postal Service is proposing to amend its regulations in order to implement section 508 of the Rehabilitation Act of 1973, as amended. Section 508 requires Federal agencies to ensure that the electronic and information technology (EIT) they procure allows individuals with disabilities access to EIT comparable to the access of those who are not disabled, unless the agency would incur an undue hardship. The statute was amended by the Workforce Investment Act of 1998 to add enforcement provisions and to require agencies to add a complaint process for section 508. The complaint process for members of the public who are disabled is outlined here in part 255. The complaint process for employees and applicants who are disabled is set forth in the Postal Service's Handbook EL–603, *Equal Employment Opportunity Complaint Processing*.

DATES: Written comments must be received on or before March 27, 2002.

ADDRESSES: Written comments should be mailed to Office of the Consumer Advocate, United States Postal Service, 475 L'Enfant Plaza, SW., Room 5801, Washington, DC 20260–2200. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the Corporate Library, United States Postal Service, 475 L'Enfant Plaza, SW., Room 11800, Washington, DC 20260, (202) 268–2900.

FOR FURTHER INFORMATION CONTACT: Joan C. Goodrich, (202) 268–3047 or Christine M. Taylor, (202) 268–3017.

SUPPLEMENTARY INFORMATION: The Workforce Investment Act of 1998, Pub. L. 105–220, 112 Stat. 936 (1998), amending section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d, was signed into law on August 7, 1998. In addition to the provisions outlined above, the act required the Architectural and Transportation Barriers Compliance Board (Access Board) to publish standards defining EIT and setting forth the technical and functional performance criteria necessary to accessibility for such technology. The act, which was effective August 7, 2000, also required the Access Board to publish its final standards by February 7, 2000.

On July 13, 2000, the Military Construction Appropriations Act for Fiscal Year 2001, Pub. L. 106–246, which contained an amendment to section 508, was signed into law. Public Law No. 106–246 delayed the effective date for enforcement of section 508 to 6 months from the publication of the Access Board's final standards. The Access Board's final standards were published on December 21, 2000, in 65 FR 80500–80528. The effective date for enforcement of section 508 became June 21, 2001. In accordance with the statutory requirements outlined above, the Postal Service is initiating this notice of proposed rulemaking adding a complaint process for section 508 to its regulations.

Section-by-Section Analysis

Section 255.1 Purpose

This new section is added to describe the purposes of part 255. These purposes are to implement sections 504 and 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §§ 794, 794d. Another purpose is to state that the EIT standards set forth in part 255 are intended to be consistent with the standards of the Access Board announced in the **Federal Register** on December 21, 2000.

Former *Section 255.1 Discrimination against handicapped persons* has been renamed and renumbered as *Section 255.3 Nondiscrimination under any program or activity conducted by the Postal Service*.

Section 255.2 Definitions

This new section has been added to provide definitions of the terms used in part 255. A number of definitions have been added to clarify words and concepts already in part 255. New definitions were added for the new terms associated with section 508. There is a change in terms from ''handicapped person'' to ''individual with a disability,'' but the definition of who is ''disabled'' remains the same. This change was made to reflect the change in terminology in the Rehabilitation Act. Prior *Section 255.2 Special Arrangements for postal services is now Section 255.7 Special arrangements for postal services*.

Section 255.3 Nondiscrimination Under any Program or Activity Conducted by the Postal Service

This section states the prohibition against discrimination based upon

disability in federally conducted programs or activities that is contained in section 504 of the Rehabilitation Act. It originally appeared in former section 255.1(a). The words ''handicapped'' and ''handicap'' have been removed and replaced with ''disability.''

Section 255.4 Accessibility to Electronic and Information Technology

This section is new. It states the standards set forth in section 508 of the Rehabilitation Act which apply to making EIT accessible to individuals with disabilities. It also specifics the obligations of the Postal Service where providing access to EIT would pose an undue burden.

Section 255.5 Employment

This section states the prohibition against discrimination in employment based upon disability that is contained in section 501 of the Rehabilitation Act, as amended, 29 U.S.C. § 791. It was previously found at section 255.1(d). The word ''handicapped'' has been removed and replaced with ''disability.''

Section 255.6 Complaint Procedures

This section adds section 508 to the existing complaint process for section 504. It revises and clarifies the complaint process.

(a) Applicability

This paragraph explains that the procedures of part 255 apply to alleged violations of section 504 and section 508 brought by members of the public.

(b) Employment Complaints

Subparagraph (1) explains that complaints brought by applicants and employees alleging violations of section 504 with respect to employment will be processed by the Postal Service in accordance with the procedures established by the Equal Employment Opportunity Commission (EEOC) in 29 CFR part 1614 under the authority of section 501 of the Rehabilitation Act. The Postal Service's own procedures following part 1614 are found in Handbook EL–603, *Equal Employment Opportunity Complaint Processing.*

Previously, the section on employment complaints was found at section 255.1(d). The reference to the *Employee and Labor Relations Manual* was deleted and replaced with the reference to Handbook EL–603 because the complaint processing procedures were removed from the manual and placed into the handbook. The reference to part 1614 was added to clarify where the EEOC regulations are found. The term ''handicapped'' was removed and replaced with ''disability.''

Subparagraph (2) is new and explains that complaints brought by applicants and employees alleging violations of section 508 and involving employment will be processed in accordance with the new section 508 procedures added to Handbook EL–603.

(c) Complaints by Members of the Public

Section 508 has been added to the former complaint process for section 504. The former process, previously found at section 255.1(c), has been modified to include an informal stage and a formal stage. A requirement that a complainant shall first exhaust informal administrative procedures before filing a formal complaint has been added.

Subparagraphs (1) (i) through (iii) outline the informal procedures for sections 504 and 508. The procedures retain the 60-day requirement for resolution of a complaint at the informal stage. The informal process focuses on resolution of the complaint at the local level and provides an automatic review by higher level managers. A written decision on the informal complaint must be issued on or before the 60th day by the area/functional vice president. Addition of the area/functional vice president as the final level of review was added to ensure accountability at the highest level.

Subparagraphs (2)(i) through (iv) outline the formal procedures for sections 504 and 508. If the complainant wishes to pursue the complaint beyond the informal stage, s/he may file a formal complaint with the Vice President and Consumer Advocate. If the complainant files a formal complaint, s/he must exhaust the formal procedures before filing suit in any other forum. The general exhaustion requirement of the former section 255.1(c)(5) was clarified in order to prevent confusing and duplicative processing of one complaint. The reference to the *Postal Operations Manual* was removed because the complaint procedures relating to the Vice President and Consumer Advocate are now contained here.

Section 255.7 Special Arrangements for Postal Services

This section sets forth the types of arrangements that can be made for those individuals eligible under postal regulations for obtaining postal services under special conditions. Members of the public who are not disabled within the meaning of the Rehabilitation Act may qualify for special arrangements pursuant to the postal regulations listed here. In accordance with section 504 or this part, individuals who are disabled may be provided with special arrangements as a reasonable accommodation.

The section, previously found at section 255.2, is essentially unchanged with the exception of editing for clarity and the addition of language on reasonable accommodation under section 504. Specific section numbers contained in the cited manuals were removed because manual revisions have changed where the topics are now found.

Section 255.8 Access to Postal Facilities

This section is essentially unchanged except for editing for clarity and the addition of legal citations to make the cited authorities easier to identify and locate. It was previously found at section 255.3.

Section 255.9 Other Postal Regulations; Authority of Postal Managers and Employees

This section is the same as the original previously found at section 255.4 except that ''official'' was changed to ''manager'' and the last sentence referring to misdirected informal complaints was deleted. A similar requirement that postal managers or employees promptly refer informal complaints they receive that they lack the authority to resolve to the appropriate manager was added in section 255.6(c)(1)(i) where it logically belongs.

Although 39 U.S.C. 410, exempts the Postal Service from the rulemaking notice and comment requirements of the Administrative Procedures Act, 5 U.S.C. 553, the Postal Service, nevertheless, invites public comment on the following proposed revisions to 39 CFR part 255.

List of Subjects in 39 CFR Part 255

Electronic and information technology, Federal buildings and facilities, Individuals with disabilities.

Accordingly, the Postal Service proposes to revise 39 CFR part 255 to read as follows:

PART 255—ACCESS OF PERSONS WITH DISABILITIES TO POSTAL SERVICE PROGRAMS, ACTIVITIES, FACILITIES, AND ELECTRONIC AND INFORMATION TECHNOLOGY

Sec.
255.1 Purpose.
255.2 Definitions.
255.3 Nondiscrimination under any program or activity conducted by the Postal Service.
255.4 Accessibility to electronic and information technology.

255.5 Employment.
255.6 Complaint procedures.
255.7 Special arrangements for postal services.
255.8 Access to postal facilities.
255.9 Other postal regulations; authority of postal managers and employees.

Authority: 39 U.S.C. 101, 401, 403, 1001, 1003, 3403, 3404; 29 U.S.C. 791, 794, 794d

§ 255.1 Purpose.

(a) This part implements section 504 of the Rehabilitation Act of 1973, as amended. Section 504 prohibits discrimination on the basis of disability in programs or activities conducted by executive agencies or by the Postal Service. This part also implements section 508 of the Rehabilitation Act of 1973, as amended. Section 508 requires that executive agencies and the Postal Service ensure, absent an undue burden, that individuals with disabilities have access to electronic and information technology that is comparable to the access of individuals who are not disabled.

(b) The standards relating to electronic and information technology expressed here are intended to be consistent with the standards announced by the Architectural and Transportation Barriers Compliance Board. Those standards are codified at 36 CFR part 1194.

§ 255.2 Definitions.

(a) *Agency* as used in this part means the Postal Service.

(b) *Area/functional vice president* also includes his or her designee.

(c) *Electronic and information technology (EIT)* includes ''information technology'' and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

(d) *Formal complaint* means a written statement that contains the complainant's name, address, and telephone number; sets forth the nature of the complainant's disability; and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature of the alleged violation of section 504 or of section 508. It shall be signed by the complainant or by someone authorized to do so on the complainant's behalf.

(e) *Individual with a disability*. For purposes of this part, ''individual with a disability'' means any person who

(1) Has a physical or mental impairment that substantially limits one or more of such person's major life activities;

(2) Has a record of such an impairment; or

(3) Is regarded as having such an impairment.

(f) *Information technology* means any equipment, or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

(g) *Postal manager*. As used in this part, ''postal manager'' means the manager or official responsible for a service, facility, program, or activity.

(h) *Qualified individual with a disability*. For purposes of this part, ''qualified individual with a disability'' means

(1) With respect to any Postal Service program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with a disability who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature; or

(2) With respect to any other program or activity, an individual with a disability who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(i) *Section 501* means section 501 of the Rehabilitation Act of 1973, as amended. Section 501 is codified at 29 U.S.C. 791.

(j) *Section 504* means section 504 of the Rehabilitation Act of 1973, as amended. Section 504 is codified at 29 U.S.C. 794.

(k) *Section 508* means section 508 of the Rehabilitation Act of 1973, as amended. Section 508 is codified at 29 U.S.C. 794d.

(l) *Undue burden* means significant difficulty or expense.

(m) *Vice President and Consumer Advocate* also includes his or her designee.

§ 255.3 Nondiscrimination under any program or activity conducted by the Postal Service.

In accordance with section 504 of the Rehabilitation Act, no qualified individual with a disability shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity conducted by the Postal Service.

§ 255.4 Accessibility to electronic and information technology.

(a) In accordance with section 508 of the Rehabilitation Act, the Postal Service shall ensure, absent an undue burden, that the electronic and information technology the agency procures allows:

(1) Individuals with disabilities who are Postal Service employees or applicants to have access to and use of information and data that is comparable to the access to and use of information and data by Postal Service employees or applicants who are not individuals with disabilities; and

(2) Individuals with disabilities who are members of the public seeking information or services from the Postal Service to have access to and use of information and data that is comparable to the access to and use of information and data by members of the public who are not individuals with disabilities.

(b) When procurement of electronic and information technology that meets the standards published by the Architectural and Transportation Barriers Compliance Board would pose an undue burden, the Postal Service shall provide individuals with disabilities covered by paragraph (a) of this section with the information and data by an alternative means of access that allows the individuals to use the information and data.

§ 255.5 Employment.

No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment with the Postal Service. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973, as established by the Equal Employment Opportunity Commission in 29 CFR part 1614 shall apply to employment within the Postal Service.

§ 255.6 Complaint procedures.

(a) *Applicability*. Except as provided in paragraph (b)(1) of this section, this section applies to all section 504 allegations of discrimination based upon disability in the programs or activities conducted by the Postal Service. Except as provided in paragraph (b)(2) of this section, this section applies to all allegations of section 508 violations.

(b) *Employment complaints*. (1) The Postal Service shall process complaints

of employees and applicants alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791. In accordance with 29 CFR part 1614, the Postal Service has established procedures for processing complaints of alleged employment discrimination, based upon disability, in the agency's Handbook EL–603, *Equal Employment Opportunity Complaint Processing.*

(2) The agency shall process complaints of employees and applicants alleging violations of section 508 and involving employment in accordance with the section 508 procedures which have been added to Handbook EL–603. Section 508 complaints shall be processed to provide the remedies required by section 508 of the Rehabilitation Act.

(c) *Complaints by members of the public.* Any individual with a disability who believes that he or she has been subjected to discrimination prohibited by this part or by the alleged failure of the agency to provide access to electronic and information technology may file a complaint by following the procedures described herein. A complainant shall first exhaust informal administrative procedures before filing a formal complaint.

(1) *Informal complaints relating to Postal Service programs or activities and to EIT.* (i) A complainant initiates the informal process by informing the responsible postal manager of the alleged discrimination or inaccessibility of Postal Service programs, activities, or EIT. Postal managers or employees who receive informal complaints that they lack the authority to resolve must promptly refer any such informal complaint to the appropriate postal manager, and at the same time must notify the complainant of the name, address, and telephone number of the person handling the complaint.

(ii) *Resolution of the informal complaint and time limits.* Within 15 days of receipt of the informal complaint, the responsible postal manager must send the complainant a written acknowledgement of the informal complaint. If the matter cannot be resolved within 30 days of its receipt, the complainant must be sent a written interim report which explains the status of the informal complaint and the proposed resolution of the matter. On or before the 60th day from receipt of the informal complaint, the agency shall issue a written decision detailing the final disposition of the informal complaint and the reasons for that disposition.

(iii) *Automatic review.* The responsible postal manager's proposed disposition of the informal complaint shall be submitted to the appropriate district/program manager for review. The district/program manager shall forward the proposed disposition to the area/functional vice president for review and issuance of the written decision. This automatic review process shall be completed such that the written decision of the area/functional vice president shall be issued no later than the 60th day.

(2) *Formal complaints.* If an informal complaint filed under paragraph (c)(1) of this section is not resolved within 60 days of its receipt, the complainant may seek relief in any other appropriate forum, including the right to file a formal complaint with the Vice President and Consumer Advocate in accordance with the following procedures. If the complainant files a formal complaint with the Vice President and Consumer Advocate, the complainant shall exhaust the formal complaint procedures before filing suit in any other forum.

(i) *Where to file.* Formal complaints relating to programs or activities conducted by the Postal Service or to access of Postal Service EIT may be filed with the Vice President and Consumer Advocate, United States Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260.

(ii) *When to file.* A formal complaint shall be filed within 30 days of the date the complainant receives the decision of the area/functional vice president to deny relief. For purposes of determining when a formal complaint is timely filed under this paragraph (c)(2)(ii), a formal complaint mailed to the agency shall be deemed filed on the date it is postmarked. Any other formal complaint shall be deemed filed on the date it is received by the Vice President and Consumer Advocate.

(iii) *Acceptance of the formal complaint.* The Vice President and Consumer Advocate shall accept a timely filed formal complaint that meets the requirements of § 255.2(d), is filed after fulfilling the informal exhaustion procedures of § 255.6(c)(1), and over which the agency has jurisdiction. The Vice President and Consumer Advocate shall notify the complainant of receipt and acceptance of the formal complaint within 15 days of the date the Vice President and Consumer Advocate received the formal complaint.

(iv) *Resolution of the formal complaint.* Within 180 days of receipt and acceptance of a formal complaint over which the agency has jurisdiction, the Vice President and Consumer Advocate shall notify the complainant of the results of the investigation of the formal complaint. The notice shall be a written decision stating whether or not relief is being granted and the reasons for granting or denying relief. The notice shall state that it is the final decision of the Postal Service on the formal complaint.

§ 255.7 Special arrangements for postal services.

Members of the public who are unable to use or who have difficulty using certain postal services may be eligible under postal regulations for special arrangements. Some of the special arrangements that the Postal Service has authorized are listed below. No one is required to use any special arrangement offered by the Postal Service, but an individual's refusal to make use of a particular special arrangement does not require the Postal Service to offer other special arrangements to that individual.

(a) The *Postal Operations Manual* offers information on special arrangements for the following postal services.

(1) Carrier delivery services and programs.

(2) Postal retail services and programs.

(3) Retail service from rural carriers.

(4) Self-service postal centers. Self-service postal centers contain deposit boxes for parcels and letter mail, and vending equipment for the sale of stamps and stamp items. Many centers are accessible to individuals in wheelchairs. Information regarding the location of the nearest center may be obtained from a local Post Office.

(b) The *Domestic Mail Manual,* the *Administrative Support Manual,* and the *International Mail Manual* contain information regarding postage-free mailing for mailings that qualify.

(c) *Inquiries and requests.* Members of the public wishing further information about special arrangements for particular postal services may contact their local postal manager.

(d) *Response to a request or complaint regarding a special arrangement for postal services.* A local postal manager receiving a request or complaint about a special arrangement for postal services must provide any arrangement as required by postal regulations. If no special arrangements are required by postal regulations, the local postal manager, in consultation with the district manager or area manager, as needed, may provide a special arrangement or take any action that will accommodate an individual with a

disability as required by section 504 or by this part.

§ 255.8 Access to postal facilities.

(a) *Legal requirements and policy* (1) *ABA Standards.* Where the design standards of the Architectural Barriers Act (ABA) of 1968, 42 U.S.C. 4151 et seq., do not apply, the Postal Service may perform a discretionary retrofit to a facility in accordance with this part to accommodate individuals with disabilities.

(2) *Discretionary modifications.* The Postal Service may modify facilities not legally required to conform to ABA standards when it determines that doing so would be consistent with efficient postal operations. In determining whether modifications not legally required should be made, due regard is to be given to:

(i) The cost of the discretionary modification;

(ii) The number of individuals to be benefited by the modification;

(iii) The inconvenience, if any, to the general public;

(iv) The anticipated useful life of the modification to the Postal Service;

(v) Any requirement to restore a leased premises to its original condition at the expiration of the lease, and the cost of such restoration;

(vi) The historic or architectural significance of the property in accordance with the National Historic Preservation Act of 1966, 16 U.S.C. § 470 et seq.;

(vii) The availability of other options to foster service accessibility; and

(viii) Any other factor that is relevant and appropriate to the decision.

(b) *Inquiries and requests.* (1) Inquiries concerning access to postal facilities, and requests for discretionary alterations of postal facilities not covered by the design standards of the ABA, may be made to the local postal manager of the facility involved.

(2) The local postal manager's response to a request or complaint regarding an alteration to a facility will be made after consultation with the district manager or the area manager. If the determination is made that modification to meet ABA design standards is not required, a discretionary alteration may be made on a case-by-case basis in accordance with the criteria listed in paragraph (a)(2) of this section. If a discretionary alteration is not made, the local postal manager should determine if a special arrangement for postal services under § 255.7 can be provided.

§ 255.9 Other postal regulations; authority of postal managers and employees.

This part supplements all other postal regulations. Nothing in this part is intended either to repeal, modify, or amend any other postal regulation, to authorize any postal manager or employee to violate or exceed any regulatory limit, or to confer any budgetary authority on any postal official or employee outside normal budgetary procedures.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–4212 Filed 2–22–02; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA247–0308; FRL–7149–3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from food product manufacturing and processing operations. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received by March 27, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

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

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4111.

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

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I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the SCAQMD and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SCAQMD	1131	Food Product Manufacturing and Processing Operations.	09/15/00	05/08/01

On July 20, 2001, Rule 1131 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

There is no previous version of Rule 1131 in the SIP. Since Rule 1131 is a new rule, SCAQMD has not submitted previous versions of Rule 1131 to EPA.

C. What Is the Purpose of the Submitted Rule?

Rule 1131 is designed to reduce emissions of VOCs from solvents used in food product manufacturing and processing operations. Emissions are reduced by a specific VOC content limit, use of emission control devices, or a combination of these methods and other innovations. Rule 1131 includes the following general provisions:

—Applicability of the rule;
—Definitions of terms under the rule;
—Requirements of the rule;
—Recordkeeping requirements of the rule;
—Test methods for determining compliance;
—Rule 442 applicability; and,
—Exemptions from the rule.

The TSD has more detailed information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 1131 must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24,1987 **Federal Register** document,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

B. Does the Rule Meet the Evaluation Criteria?

Rule 1131 improves the SIP by establishing more stringent emission limits and by clarifying monitoring, recording, and recordkeeping provisions. This rule is largely consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. What Are the Rule's Deficiencies?

A portion of Rule 1131 conflicts with section 110 and part D of the Act and prevent full approval of these SIP revisions. The deficiency exists within subsection (c)(1)(C). This subsection allows ''director's discretion'' in the review and approval of compliance plans. The rule does not specify the emission estimation protocols needed to avoid a broad and ungoverned application of ''director's discretion'' when reviewing the compliance plans. This deficiency is inconsistent with the CAA section 110(a) requirement that the SIP be federally enforceable. A facility may take any number of actions to reduce VOC emissions to a level equivalent with the requirements of the rule.

D. EPA Recommendations To Further Improve the Rule

In this case, the EPA does not suggest additional rule revisions that might improve the rule.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of SCAQMD Rule 1131 to improve the SIP. If finalized, this action would incorporate this submitted rule into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rule under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule's deficiencies within 18 months. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rule has been adopted by the SCAQMD, and EPA's final limited disapproval would not prevent the local agency from enforcing it.

We will accept comments from the public on this proposed limited approval and limited disapproval for the next 30 days.

III. Background Information

Why Was This Rule Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP–Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13211

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

C. Executive Order 13045

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

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

D. Executive Order 13132

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

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

E. Executive Order 13175

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

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. Regulatory Flexibility Act

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

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

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

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

G. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and

is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

H. National Technology Transfer and Advancement Act

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: February 8, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 02–4406 Filed 2–22–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Region II Docket No. PR7–236, FRL–7149–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Section 111(d)/129 Plan submitted by the Commonwealth of Puerto Rico for the purpose of implementing and enforcing the Emission Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units. The plan was submitted to fulfill requirements of the Clean Air Act. The Puerto Rico (PR) plan establishes emission limits for existing HMIWI and provides for the implementation and enforcement of those limits.

DATES: Comments must be received on or before March 27, 2002.

ADDRESSES: Comments may be mailed to Raymond W. Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region II, 290 Broadway, 25th Floor, New York, NY 10007–1866. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Division of Environmental Planning and Protection, Air Programs Branch, Environmental Protection Agency, Region II, 290 Broadway, 25th Floor, New York, NY 10007–1866; Environmental Protection Agency, Region II, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, San Juan, Puerto Rico 00907–4127; and the Puerto Rico Environmental Quality Board, National Plaza Building, 431 Ponce De Leon Avenue, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Demian P. Ellis at (212) 637–3713, or by e-mail at ellis.demian@epa.gov.

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I. What Action Is Being Taken by the Environmental Protection Agency (EPA) Today?

EPA is proposing to fully approve the Puerto Rico plan, as submitted on February 20, 2001, for the control of air emissions from HMIWIs. When EPA developed the New Source Performance Standard (NSPS) for HMIWI, it also developed Emission Guidelines (EG) to control air emissions from existing HMIWI. (See 62 FR 48379, September 15, 1997, 40 CFR Part 60, Subpart Ce [Emission Guidelines and Compliance Times for HMIWIs] and Subpart Ec [Standards of Performance for HMIWIs for Which Construction is Commenced After June 20, 1996]). The Puerto Rico Environmental Quality Board (EQB) developed a plan, as required by Sections 111(d) and 129 of the Clean Air Act (CAA), 42 U.S.C. 7411(d) and 7429, to adopt the EG into its body of regulations, and EPA is proposing action today to fully approve it.

II. The HMIWI State Plan Requirement

What Is a HMIWI State Plan?

A HMIWI state plan is a plan to control air pollutant emissions from existing incinerators which burn hospital waste or medical/infectious waste.

Why Are We Requiring Puerto Rico To Submit a HMIWI Plan?

States are required under Sections 111(d) and 129 of the CAA to submit plans to control emissions from existing HMIWI in the State. The state plan requirement was triggered when EPA published the EG for HMIWI under 40 CFR Part 60, Subpart Ce (See 62 FR 48379, September 15, 1997). For the purposes of the Clean Air Act, Puerto Rico is treated as a state.

Under Section 129 of the CAA, EPA was required to promulgate EGs for several types of existing solid waste incinerators. These EGs establish emission standards that states must adopt to comply with the CAA. The HMIWI EG also establishes requirements for monitoring, operator training, permits, and a waste management plan that must be included in HMIWI plans.

The intent of the HMIWI plan requirement is to reduce several types of air pollutants associated with waste incineration.

Why Do We Need To Regulate Air Emissions From HMIWI?

The HMIWI plan establishes control requirements which reduce the following emissions from HMIWI: particulate matter; sulfur dioxide; hydrogen chloride; nitrogen oxides; carbon monoxide; lead; cadmium; mercury; and dioxin/furans. These pollutants can cause adverse effects to public health and the environment.

Dioxin, lead, and mercury bioaccumulate through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Exposure to dioxin and furans can cause skin disorders. Dioxin may also pose risks to the reproductive and immune systems and is a likely human carcinogen. Acid gases affect the respiratory tract, as well as contribute to the acid rain that damages lakes and harms forests and buildings. Exposure to particulate matter has been linked with adverse health effects, including aggravation of existing respiratory and cardiovascular disease and increased risk of premature death. Nitrogen oxide emissions contribute to the formation of ground level ozone, which is associated with a number of adverse health and environmental effects.

What Criteria Must a HMIWI Plan Meet To Be Approved?

The criteria for approving a HMIWI plan include requirements from Sections 111(d) and 129 of the CAA and 40 CFR part 60, Subpart B. Under the requirements of Sections 111(d) and 129 of the CAA, a HMIWI plan must be at least as protective as the EG regarding applicability, emission limits, compliance schedules, performance testing, monitoring and inspections, operator training and certification, waste management plans, and record keeping and reporting. Under Section 129(e), HMIWI plans must ensure that affected HMIWI facilities submit Title V permit applications to the state by September 15, 2000. Under the requirements of 40 CFR part 60, Subpart B, the criteria for an approvable Section 111(d) plan must include a demonstration of adequate legal authority, enforceable mechanisms, public participation documentation, source and emission inventories, and a state progress report commitment.

III. What Does the Puerto Rico HMIWI Plan Contain?

EQB amended its Rules 102 and 405(b) of the Regulations for the Control of Atmospheric Pollution (RCAP) to incorporate the requirements for implementing the HMIWI EG covered under Sections 111(d) and 129 of the CAA, and codified in the 40 CFR part 60, Subpart Ce. Revisions to the Commonwealth rules became effective on April 20, 2001.

The Puerto Rico HMIWI plan contains:

1. A demonstration by the Attorney General of the Commonwealth's legal authority to implement the Section 111(d)/129 HMIWI plan;
2. Revisions to Commonwealth rules 102 (definitions) and 405(b) (Incineration), as the enforceable mechanism;
3. An inventory of six (6) known designated facilities, along with estimates of their air emissions;
4. Emission limits that are as protective as the EG;
5. A final compliance date no later than September 15, 2002;
6. Testing, monitoring, inspection, reporting and record keeping requirements for the designated facilities;
7. Documentation from the public hearing on the HMIWI plan; and,
8. Provisions to make progress reports to EPA.

The reader is referred to the Technical Support Document for further details on Puerto Rico's plan.

IV. Which HMIWIs Are Subject to These Regulations?

The EG for existing HMIWI affect any HMIWI built on or before June 20, 1996. If a facility meets this criterion, it is subject to these regulations.

V. What Steps Do HMIWIs Need To Take?

A facility must meet the requirements listed in Puerto Rico Rule 405(b) of the Regulations for the Control of Atmospheric Pollution (RCAP), summarized as follows:

1. Determine the size of the facility's incinerator by establishing its maximum design capacity.
2. Each size category of HMIWI has certain emission limits established which the facility's incinerator must meet. [Rule 405(b)] Please refer to EQB's Rule 405(b), Table 1 to determine the specific emission limits which apply to the facility. The emission limits apply at all times, except during startup, shutdown, or malfunctions, provided that no waste has been charged during these events.
3. There are provisions to address small rural incinerators (if your unit is applicable). Please see Rule 405(b)(5) for further details.
4. The facility must meet a 10 percent opacity limit on its discharge, averaged over a six-minute block. Please see Rule 405(b)(2) for further details.
5. The facility must have a fully trained and qualified HMIWI operator available to supervise the operation of the incinerator. This operator must be trained and qualified through a state-approved program, or a training program that meets the requirements listed in Rule 405(b)(3).
6. The facility's operator must be certified, as discussed in 5 above, no later than one year after EPA approval of the HMIWI plan or after publication date of EPA's federal plan, whichever is sooner. Please see Rule 405(b)(9)(G) for further details.
7. The facility must develop and submit to EQB a waste management plan. This plan must be developed under guidance provided by the American Hospital Association publication, ''An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities,'' 1993, and must be submitted to EQB no later than 60 days following the initial performance test for the affected unit. Please see Rule 405(b)(4) for further details.
8. The facility must conduct an initial performance test to determine the incinerator's compliance with these emission limits. This performance test must be completed no later than 180 days after final compliance is achieved, and as required under 40 CFR 60.37e and Rule 405(b)(9)(E).
9. The facility must install, calibrate, maintain, and operate devices to monitor the parameters listed under Rule 405(b)(7).
10. The facility must document and maintain information concerning: Calendar date of each record; records of: (a) Pollutant concentrations or opacity measurements (as determined by the continuous emissions monitoring system); (b) HMIWI charge dates, times, and weights and hourly charge rates; and other operational data. This information must be maintained for a period of five years. Please see Rule 405(b)(8) for further details.
11. The facility must submit an annual report to EQB containing records of annual equipment inspections, any required maintenance, and unscheduled repairs. This annual report must be signed by the facility's manager.

VI. Is the Puerto Rico HMIWI Plan Approvable?

EPA compared the Puerto Rico Rule 405(b) of the Regulations for the Control of Atmospheric Pollution (RCAP) with our HMIWI EG. EPA finds the Puerto Rico rules to be at least as protective as the EG. The Puerto Rico HMIWI plan was reviewed for approval compared to the following criteria: 40 CFR 60.23 through 60.26, Subpart B—Adoption and Submittal of State plans for Designated Facilities; 40 CFR 60.30e through 60.39e, Subpart Ce—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators; and, 40 CFR 62.14400 through 62.14495, Subpart HHH—Federal Plan Requirements for Hospital/

Medical/Infectious Waste Incinerators Constructed on or before June 20, 1996. It should be noted that Puerto Rico is currently subject to the federal plan requirements for Hospital/Medical/Infectious Waste Incinerators, 40 CFR 62.14400 through 62.14495.

The EPA finds that the Puerto Rico HMIWI plan satisfies the requirements for an approvable Section 111(d)/129 plan under Subparts B and Ce of 40 CFR Part 60 and Subpart HHH of 40 CFR Part 62 and is therefore, proposing to approve the Puerto Rico HMIWI plan.

VII. Administrative Requirements

Executive Order 12866

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

Paperwork Reduction Act

This action will not impose any collection information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0363. For additional information concerning these requirements, *See* 40 CFR 60.38e. 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.

Executive Order 13045

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

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

Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6(b) of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. Under section 6(c) of Executive Order 13132, EPA may not issue a regulation that has federalism implications and that preempts state law, unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

EPA has concluded that this rule may have federalism implications. The only reason why this rule may have federalism implications is if in the future a HMIWI source is found in the Commonwealth of Puerto Rico in which case the source will become subject to the federal plan until a Puerto Rico HMIWI plan is approved by EPA. However, it will not impose substantial direct compliance costs on state or local governments, nor will it preempt state law. Thus, the requirements of sections 6(b) and 6(c) of the Executive Order do no apply to this rule.

Executive Order 13175

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

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

Regulatory Flexibility

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

This rule will not have a significant impact on a substantial number of small entities because such businesses have already been subject to the federal plan, which mirrors this rule. Therefore, because the Federal approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates

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

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

National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act

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

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, waste treatment and disposal.

Dated: February 11, 2002.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 02–4405 Filed 2–22–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-month Finding for a Petition To List the Big Cypress Fox Squirrel

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the Fish and Wildlife Service (Service), announce a 12-month finding for a petition to list the Big Cypress fox squirrel (*Sciurus niger avicennia*) under the Endangered Species Act of 1973, as amended (Act). After a review of all available scientific and commercial information, we find that listing of the Big Cypress fox squirrel is not warranted at this time. We will continue to seek new information on the biology, ecology, distribution, and habitat of the Big Cypress fox squirrel, as well as potential threats to its continued existence. If additional data become available in the future, we may reassess the need for listing.

DATES: The finding announced in this document was made on February 15, 2002.

ADDRESSES: The complete file for this finding, including comments and information submitted, is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, South Florida Ecological Services Office, 1339 20th Street, Vero Beach, FL 32960.

FOR FURTHER INFORMATION CONTACT: David Martin (see **ADDRESSES** section; telephone 561/562–3909 extension 230; facsimile 561/562–4288).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act requires that, for any petition to revise the List of Endangered and Threatened Wildlife and Plants that presents substantial scientific and commercial information, we must make a finding within 12 months of the date of receipt of the petition as to whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Upon making a 12-month finding, we must promptly publish notice of such finding in the **Federal Register**.

The Big Cypress fox squirrel (*Sciurus niger avicennia*) is a subspecies of the fox squirrel (*Sciurus niger*), which occurs over most of the eastern and central United States, extending into south-central Canada (Koprowski 1994). The Big Cypress fox squirrel is restricted to southwest Florida. Its historic range was southwest Florida from south of the Caloosahatchee River, west of the Everglades, to as far south as Cape Sable (Williams and Humphrey 1979, Moore 1956). Despite human development and changes in land use in the southwestern Florida peninsula, the current range of the Big Cypress fox squirrel, based on its description in the best available information, is essentially unchanged (Humphrey and Jodice 1992, Williams and Humphrey 1979, and Moore 1956). Big Cypress fox squirrels have been reported present in Hendry and Lee Counties south of the Caloosahatchee River, Collier County, the mainland of Monroe County, and extreme western Miami-Dade County (a strip of land on the western side of the true Everglades, largely in Big Cypress National Preserve) (Humphrey and Jodice 1992, Jodice 1990, Wooding 1990, and Williams and Humphrey 1979). The Big Cypress fox squirrel is, however, absent from a few areas of its historic range like the Cape Sable coast of Everglades National Park in the vicinity of Flamingo, Monroe County. (Wooding 1990, Jodice 1990, Humphrey and Jodice 1992).

Fox squirrel research specific to Florida was only begun in the 1950s (Wooding 1990). Therefore, very little information regarding Big Cypress fox squirrels is available from prior to that time. Studies of the Big Cypress fox squirrel in its natural habitat are virtually nonexistent. Available reports specific to the Big Cypress fox squirrel provide limited details regarding the biology of, population status of, and threats faced by this fox squirrel range-wide. In addition, no recent studies or evaluations of the Big Cypress fox squirrel have been conducted. The only recent analysis was conducted on potential Big Cypress fox squirrel habitat (WilsonMiller Inc. 2002). The previous range-wide report by Cox *et al.* (1994) on habitat used 1985–1989 Landsat imagery.

The State has protected the Big Cypress fox squirrel since 1973, when the Florida Fish and Wildlife Commission (Commission) listed it as endangered. The State reclassified the Big Cypress fox squirrel to threatened in 1979; the species retained protection as a nongame species. As a threatened species, Big Cypress fox squirrels and their nests cannot be taken or possessed without authorization from the Commission.

Our involvement with the Big Cypress fox squirrel began when we identified the Big Cypress fox squirrel as a category 2 candidate species in Notices of Review published in the **Federal Register** on December 30, 1982 (47 FR 58454), September 18, 1985 (50 FR 37958), January 6, 1989 (54 FR 554), November 21, 1991 (56 FR 58804), and November 15, 1994 (59 FR 58982). Prior to 1996, a category 2 species was one that we were considering for possible addition to the Federal Lists of Endangered and Threatened Wildlife and Plants, but for which conclusive data on biological vulnerability and threats were not available to support a proposed rule. We identified the Big Cypress fox squirrel's status as ''D'' or ''Declining'' in the 1991 and 1994 Notices of Review. This designation indicates decreasing numbers or increasing threats. In addition, we identified a priority for this subspecies and most of our other category 2 candidates during the completion of the 1991 and 1994 Notices of Review. In 1991, the Big Cypress fox squirrel was identified as a priority 9. Based on the listing priority system detailed in the **Federal Register** in 1983 (48 FR 43103), this priority indicated that the Big Cypress fox squirrel faced a moderate to low magnitude of imminent threats. In

1994, the Big Cypress fox squirrel was identified as a low-priority category 2 candidate. We discontinued designation of category 2 species in the February 28, 1996, Notice of Review (61 FR 7596). This notice redefined candidate to include only species for which we have information needed to propose them for listing.

On January 5, 1998, we received a petition from the Biodiversity Legal Foundation, Sidney Maddock, Florida Biodiversity Project, Brian Scherf, and Rosalyn Scherf, to list the Big Cypress fox squirrel as a threatened species and designate critical habitat concurrently with listing. The petitioners stated that the Big Cypress fox squirrel is threatened by several factors, including habitat loss, fragmentation, and modification; exclusion of fire; predation; road mortality; and poaching. After considering the petition and reviewing all available scientific and commercial information, we made a 90-day finding that the petition to list the Big Cypress fox squirrel presented substantial information indicating that the requested action may be warranted. We published a notice announcing our finding in the **Federal Register** on September 9, 1998 (63 FR 48165), and initiated a status review on the subspecies.

On December 11, 2000, the petitioners filed a complaint in the U.S. District Court for the Southern District of Florida, Key West Division, against the U.S. Fish and Wildlife Service (Service), the Director of the Service, and the Secretary of the Department of the Interior, alleging the Service failed to make a 12-month finding on the petition to list the Big Cypress fox squirrel. On September 25, 2001, the U.S. Department of Justice entered into a settlement agreement with the petitioners in which the Service agreed to complete a 12-month finding for the Big Cypress fox squirrel and submit this finding to the **Federal Register** by February 18, 2002.

Summary of Factors Affecting the Species

Under Section 4(a)(1) of the Act, a species may be determined to be threatened or endangered for any one of the following reasons: (1) Present or threatened destruction, modification, or curtailment of habitat or range; (2) overutilization for commercial, sporting, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Listing determinations are made solely on the best scientific and commercial data available and after taking into account any efforts being made by any State or foreign nation to protect the species. We have examined each of the five listing factors under the Act for their application to the Big Cypress fox squirrel as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Big Cypress fox squirrel's current range, as described in the best available information, remains essentially unchanged (Humphrey and Jodice 1992, Williams and Humphrey 1979, Moore 1956) from its historic range. This subspecies of fox squirrel has been found to use most types of forests within its range, including open pinelands (wet or dry), mixed open pine-cypress, mixed open pine hardwoods, open hardwood, seasonally used cypress strand and edges of cypress dome strands, interiors of cypress domes and strands, prairie with interspersed pines or adjacent pineland, live oak savannas, and mangrove, cypress, and hardwood swamps. Although many questions remain about habitat use and requirements for this squirrel, the Big Cypress fox squirrel seems to prefer an open understory in the habitat types that it frequents (Ditigen 1999, Wooding 1990, and Brown 1978). We also believe the Big Cypress fox squirrel is opportunistic in its use of available habitat. For example, in addition to the habitat types listed above, Big Cypress fox squirrels also persist in urban settings where native vegetation is present (Ditigen 1999, Cox et al. 1994, and Williams and Humphrey 1979). These settings include golf courses, city parks, and residential areas that contain or have adjacent pine flatwoods, upland fringes of cypress domes, and tropical hardwood forests.

Habitat for the Big Cypress fox squirrel exists on both private land and conservation lands within this subspecies' range. We provide a brief county-by-county analysis:

Hendry County

The land ownership is mostly private and land use is mainly agriculture and ranching. Most Big Cypress fox squirrel habitat is in the northwestern part of the county on several ranches. These areas are all medium-sized (1,000–4,000 ha) with existing Big Cypress fox squirrel populations (Wooding 1997). Fox squirrels use both pine and cypress habitats, as well as improved cattle pastures that have live oaks, on ranchlands in Hendry County (Williams and Humphrey 1979). Okaloacoochee Slough State Forest is also in this county. The rate of population growth for Hendry County as estimated and projected gradually decreases between 1990 and 2030. (For all human population figures, 1990 and 2000 figures from U.S. Census, available at http://swfloridabusiness.com; ''Projections of Florida Population by County, 2000–2030,'' produced by the Bureau of Economic and Business Research, University of Florida. Data presented at website of Southwest Florida Regional Planning Council (see Literature Cited)).

Lee County

In eastern Lee County, land ownership is similar to Hendry County. A notable Big Cypress fox squirrel population in a medium-sized area of habitat was found on a ranch in this part of the county (Wooding 1997). Wooding also reported Big Cypress fox squirrels from golf courses and ranchettes adjacent to this area. Western Lee County is mostly urban or residential in and near Ft. Myers and Naples, including the corridor of I–75. However, areas of habitat that Big Cypress fox squirrels use exist in this area, like Estero Bay State Buffer Preserve and Koreshan State Historic Site. Lee County, between 2000 and 2010, will gain the greatest number of people (98,412) of all the counties within the range of the Big Cypress fox squirrel. We expect this population growth will be focused around the I–75 corridor.

Collier County

The northwestern edge of Collier County is similar to western Lee County, with mostly urban or residential areas in and near the Naples area and the end of the I–75 corridor. We expect population growth in the county to be focused in this area. Wooding (1997) found Big Cypress fox squirrels to be common on some golf courses around Naples. In addition, Rookery Bay National Estuarine Research Reserve, which has reported fox squirrels (Florida Department of Environmental Protection 2001a), is in this area. The remainder of Collier County to the south and east is mostly in public ownership as conservation lands. Big Cypress fox squirrels have been reported from all conservation lands in this county and one ranch.

Monroe and Miami-Dade Counties

Monroe County and extreme western Miami-Dade County are largely composed of Everglades National Park, where the squirrel is a resident and can be found in mangroves, pinelands, and cypress swamp (http://www.nps.gov/ever/eco/mammals.htm). We believe that residential and urban land uses in

this part of the Big Cypress fox squirrel's range are insignificant.

Summary

Within the geographic range of the Big Cypress fox squirrel, 58 percent of the potential habitat for this subspecies exists in conservation lands (551,855 ac) and a little under 400,000 ac exists on nonconservation lands, for a total of 949,000 ac (WilsonMiller Inc. 2002). Big Cypress fox squirrels occur in nearly all conservation lands within their range.

Recently, WilsonMiller Inc. (2002) evaluated the amount of potential habitat available to the Big Cypress fox squirrel in southwest Florida, especially in Collier, Hendry, Lee, and Monroe counties. It noted that the basis of Cox et al.'s (1994) report, especially their choice to use pineland and dry prairie as the principal components of Big Cypress fox squirrel habitat and their subsequent analysis based on these cover types, was inconsistent with Big Cypress fox squirrel habitat types described in current literature (Humphrey and Jodice 1992), did not fully account for the occurrence data reported by Williams and Humphrey 1979, and underestimated the total amount of Big Cypress fox squirrel potential habitat. In its analysis, WilsonMiller Inc. used 1995 data to map, with a minimum map unit size of 5 acres, habitat types utilized by the fox squirrel and consistent with Humphrey and Jodice (1992). The mapped results indicate that more than twice as much Big Cypress fox squirrel potential habitat (949,000 ac) exists than what was estimated by Cox et al. (about 414,000 ac). The WilsonMiller Inc. map also indicates large, interconnected, forested patches of Big Cypress fox squirrel habitat that may allow movement and genetic interchange. According to WilsonMiller Inc., its analysis and map correlates well with available occurrence data for the Big Cypress fox squirrel and includes conservation lands with known Big Cypress fox squirrel residents and habitat that was not accounted for by Cox et al. (1994).

In general, we believe—based on WilsonMiller Inc's (2002) study—that the Big Cypress fox squirrel has more potential habitat than outlined by Cox et al. (1994) (over 900,000 acres) and has additional larger patches of habitat than those classified by Wooding (1997). We also believe similar to Wooding (1997) that smaller, isolated, fragmented pockets of squirrels are surviving in strips and patches of habitat, such as golf courses and fringes of residential areas. We believe the Big Cypress fox squirrel has been difficult to assess in its range. Among other reasons, native fox squirrel habitat is often too dense to make behavioral observations (or sightings) from farther away than a few meters. (Maehr 1993)

We believe the majority of population growth in the Big Cypress fox squirrel's range will occur in or near the I–75 corridor, mostly in and around the south Ft. Myers and Naples areas. Growth and development will generally occur west of the majority of Big Cypress fox squirrel potential habitat (WilsonMiller Inc. 2002). Habitat important to the Big Cypress fox squirrel in this area is under the greatest pressure to be developed for residential or commercial purposes. The highest density of roads in the Big Cypress fox squirrel's range occurs in this area. Roads, depending on the type, level of traffic, and location, may fragment Big Cypress fox squirrel habitat or hinder squirrel movement. However, no research has been conducted to determine to what degree roads may fragment squirrel habitat or hinder squirrel movement. We cannot conclude based on current information if road fragmentation constitutes a threat to this subspecies' habitat. Based on recorded sightings, we do believe squirrels cross some roads and are found near them. An area around the I–75 corridor that has been heavily studied includes golf courses, which have been found to provide a better green space than most development projects, but Big Cypress fox squirrels will persist on them only as long as suitable native habitat is contiguous to the golf courses (Ditigen 1999).

A large portion of the Big Cypress fox squirrel's range consists of lands purchased for conservation purposes. These lands are mostly in Collier, Monroe, and extreme western Miami-Dade Counties and are protected from development and have a low density of roads bisecting natural habitat. Our available information does not conclusively suggest that current management practices on these conservation lands constitute a threat to the Big Cypress fox squirrel. For example, Humphrey and Jodice (1992) explain that ground fires apparently are valuable to the habitats of Big Cypress fox squirrels because they slow plant succession, but this specific relationship has not been studied. We are encouraged by the efforts of both State and Federal agencies in fire planning and prescribed burning. This should result in a more open understory for the Big Cypress fox squirrel if burning is not hampered by drought conditions for continuous years.

Hendry County and eastern Lee County, where Wooding (1997) found the largest areas of Big Cypress fox squirrel habitat and where WilsonMiller Inc. (2002) found only 10 percent of the total potential Big Cypress fox squirrel habitat, are under private ownership and are not under high pressure to be developed for residential purposes (though native Big Cypress fox squirrel habitat here may be converted for different land uses, such as citrus production). Big Cypress fox squirrels have been reported to occur on ranches. In fact, much of the habitat described by Wooding (1997) is on ranches in southern Florida, and grazing by cattle may enhance the understory, improving the habitat for squirrels (Williams and Humphrey 1979). Even if we assume that Big Cypress fox squirrels are not able to use lands converted for citrus production or other agricultural purposes, the best available information does not indicate that the rate of conversion of native habitat in Hendry County poses a threat to this subspecies. According to WilsonMiller (2002), Collier, Lee, and Monroe counties, which contain 90 percent of the total Big Cypress fox squirrel habitat, nearly all of which is in conservation lands, have not undergone a significant agricultural expansion. Therefore, we also cannot conclude, based on the best available information, that the rate of land conversion in these counties poses a threat to this subspecies.

Mining for rock and sand also occurs in Collier and Lee Counties. Some of these operations destroy pine flatwoods or mixed pine-cypress areas. In some cases, it may be difficult to separate losses to mining from those due to agriculture, because lands are often cleared under agricultural permits prior to mining. Mines are an allowed use in agriculturally zoned areas in Lee and Collier Counties (K. Dryden and A. Eller, Fish and Wildlife Service, personal communication 2000). Mining is not a compatible land use if it destroys native squirrel habitat.

Our best available information indicates the Big Cypress fox squirrel has lost habitat in some areas to urbanization, agriculture, and mining. Nevertheless, conservation lands do cover 58 percent of this subspecies' historic range, and areas of habitat exist on private ranches and other urban areas. Based on the best available information, potential Big Cypress fox squirrel habitat appears to be more than twice what was previously estimated. In addition, the Big Cypress fox squirrel still occupies most of its historic range in southwest Florida and has shown itself to be adaptable, by residing in

altered habitats such as golf courses and residential areas where native habitat is preserved, and mobile in its native habitat. Furthermore, quantitative or substantial information on the Big Cypress fox squirrel, its status, and its habitat use and requirements is lacking. Therefore, based on uncertainties about how this fox squirrel uses its native habitat and on the actual status of the Big Cypress fox squirrel population, and due to the amount of available potential habitat to this fox squirrel, we cannot conclude that the Big Cypress fox squirrel is threatened or endangered due to the destruction or curtailment of its habitat or range.

2. *Overutilization for commercial, recreational, scientific, or educational purposes.* The Big Cypress fox squirrel has been protected from hunting since 1973, when the State listed it as an endangered species. The State later reclassified the Big Cypress fox squirrel to threatened in 1979, but it retained protection as a nongame species. Elsewhere in Florida, fox squirrel hunting formerly was a popular activity, but interest dropped off (Wooding 1990), which is one factor that led to the closure of fox squirrel hunting statewide as of the 1996–1997 hunting season (Wooding 1997). Despite concerns that ''people were still shooting'' fox squirrels as discussed in the petition, we do not have evidence that poaching of fox squirrels constitutes a threat to this subspecies. Also, no information is available to confirm that Big Cypress fox squirrel populations may have suffered long-term reduction in size due to legal hunting.

3. *Disease or predation.* A skin fungus has been identified as a source of mortality for Big Cypress fox squirrels found in urban areas. During Ditgen's (1999) study of fox squirrels on golf courses in southwest Florida, she noted at least eight individuals with a fungus causing heavy fur loss and a blackened crusting of the skin. Ditgen reported that two Big Cypress fox squirrels died as a result of the skin fungus during her study. One collared individual survived the fungus infestation and regained a thick, healthy coat. No researchers have suggested that this fungus threatens urban Big Cypress fox squirrel populations. A pox outbreak was reported in eight counties in southeast and central Florida outside the range of the Big Cypress fox squirrel during the 1990's. Although no cases have been reported affecting Big Cypress fox squirrels, one infected Sherman's fox squirrel was observed (T. Regen, Florida Fish and Wildlife Conservation Commission, personal communication 1999). Mosquitoes transmit the disease, which only affects squirrels. No known treatment or vaccine is available. At this time, we have no evidence that pox is likely to pose a threat to the Big Cypress fox squirrel. In addition, Big Cypress fox squirrels, like other fox squirrels, are susceptible to parasites, but we have no evidence that parasites pose a threat to the Big Cypress fox squirrel. As the petitioners state, based on a study of fox squirrel parasites, the prevalences and intensities were much lower in Big Cypress fox squirrels.

Predation may limit the sizes of Big Cypress fox squirrel populations. All fox squirrels spend much of their time on the ground, where they are more vulnerable to predation than when in trees (Humphrey and Jodice 1992). Known predators of Big Cypress fox squirrels include bobcats (*Felis rufus*), gray and red foxes (*Vulpes vulpes*), and domestic cats (*Felis sylvestris*) (Ditgen 1999). Small mammals are inherently subject to predation. However, the best available information does not lead us to the conclusion that disease or predation has caused the species to meet the definition of threatened or endangered.

4. *Inadequacy of existing regulatory mechanisms.* The Big Cypress fox squirrel is listed as threatened by the Florida Fish and Wildlife Conservation Commission (Commission) under Rule 68A–27.004 (formerly 39–27.004) of the Florida Administrative Code. This rule provides that no one may take, possess, transport, molest, harass, or sell any threatened species, their parts, or their nests except as authorized by a permit from the Commission. Permits are issued for conservation purposes or scientific purposes only after the applicant shows the activity will not have a negative impact on the survival of the threatened species. The Commission typically has not authorized the take of animals, but does authorize take of nest trees and nests outside of nesting season when the nest is not active (J. Beever, Florida Fish and Wildlife Conservation Commission, personal communication 2000). The Commission also provides technical assistance and recommendations to other government agencies that regulate development activities in the Big Cypress fox squirrel range. According to Section 372.0725 of the Florida Statutes, it is unlawful for anyone to kill or wound a Big Cypress fox squirrel or to intentionally destroy the nest of a Big Cypress fox squirrel, except as provided for in the rules by the Commission. Most other State agencies have not promulgated specific regulations to protect this or other animals, but instead help enforce the Commission's regulatory protections for wildlife. On many State lands managed by agencies other than the Commission, the hunting season, including permits, is managed by the Commission under its Wildlife Management Area program. Such properties include Picayune Strand and Okaloacoochee State Forests. On these properties, the Commission has the lead responsibility for activities that involve the take of wildlife.

Under the Environmental Resources Permitting program (ERP) implemented by the South Florida Water Management District (SFLWMD), Big Cypress fox squirrels and Big Cypress fox squirrel habitat on private lands receive protection. The Big Cypress fox squirrel has been designated under this program as an aquatic or wetland-dependent species that uses upland habitat for nesting. In order to get a permit from SFLWMD to begin an activity, like converting land for agricultural purposes, the landowner must provide assurances that the activity will not adversely impact the value of wetlands and other surface waters for Big Cypress fox squirrels, the value of uplands for nesting (foraging areas or wildlife corridors are not included), and will not cause adverse secondary impacts to the Big Cypress fox squirrel. (Basis of Review for ERP applications, January 2001, as referenced in Chapter 40E–4, Florida Administrative Code). As such, its upland nest and wetland areas receive consideration during the wetland permitting review. Projects where this subspecies or its habitat have been observed through surveys are required to preserve onsite habitat, implement a Big Cypress fox squirrel management plan, and minimize the spread of exotic plants onsite.

On all properties under jurisdiction of the Florida Division of Recreation and Parks, collection of specimens is allowed only by permit. This includes Collier-Seminole State Park and Fakahatchee Strand State Preserve Park. This prohibition is in addition to the statewide prohibition of take of Big Cypress fox squirrels imposed by the Commission. Other State land-managing agencies have similar authority to regulate public access and to manage the vegetation and other natural resources. Lands managed by the Florida Department of Environmental Protection (FLDEP) are protected by State park regulations. Also, Big Cypress fox squirrels and other resources on Federal conservation lands are protected by rules imposed by land management agencies, such as the National Park Service for Big Cypress National Preserve, to generally protect resources. In both cases, use of motor vehicles is

regulated or restricted, and take of Big Cypress fox squirrels is prohibited.

Substantial areas of Big Cypress fox squirrel habitat are on conservation lands or on private lands not currently threatened by development. Regulatory mechanisms exist that prevent direct take, and ERP rules provide some protection to the species' habitat. Therefore, the available information does not lead us to conclude that the species is threatened or endangered due to inadequacy of existing regulatory mechanisms.

5. *Other natural or manmade factors affecting its continued existence.* Fox squirrel reproduction varies greatly from year to year in response to food supplies. There are few data on how Big Cypress fox squirrels utilize their native habitats and on how many squirrels exist in these habitats. Based on the best available information, we do not believe that food availability is currently a threat that could lead the fox squirrel toward extinction.

Based on current information and recorded sightings, we believe Big Cypress fox squirrels cross roads and are found near them. Road mortality is documented for the Big Cypress fox squirrel, but a very large portion of this subspecies' habitat has few, if any roads, so road mortality in these areas is likely to be minimal. While road mortality may cause declines in numbers of squirrels in certain urban areas or other areas with roads, in the absence of demographic data, we have no evidence that the subspecies is threatened by road mortality.

No studies have documented the effects of pesticides on Big Cypress fox squirrels, and we have no evidence that poisoning is a major cause of mortality for big Cypress fox squirrels on golf courses. Poisoning has not been documented sufficiently for us to consider it a threat to the continued existence of the species.

Hurricanes in 1935 (Labor Day), 1960 (Donna), and 1992 (Andrew) extensively damaged squirrel habitat (Moore 1956, Brown 1971). The 1960 hurricane toppled nearly all the suitable nesting trees in Everglades City and virtually eliminated a Big Cypress fox squirrel population that inhabited a public park (Brown 1971, Humphrey and Jodice 1992). None of the three catastrophic hurricanes since 1930 impacted more than a fraction of the squirrel's range. The range of the subspecies is large enough to ensure that catastrophic hurricane damage is unlikely throughout the range in any 1 year. The Big Cypress fox squirrel and other southeastern fox squirrel subspecies have evolved under conditions of periodic hurricane disturbances, the most important of which for fox squirrels is probably large-scale destruction of trees. Therefore, we do not believe that hurricanes are a threat to the continued existence of the Big Cypress fox squirrel.

Finding

We have reviewed the petition, the literature cited in the petition, other available literature and information, and consulted with species experts and other individuals familiar with the Big Cypress fox squirrel. On the basis of the best available scientific and commercial information, we find that the petitioned action is not warranted at this time. The status review revealed a lack of reliable data and information on the current status and any trend in density and abundance of Big Cypress fox squirrels in natural or seminatural habitats over time. In particular, we have no reliable information on the sizes of Big Cypress fox squirrel populations on conservation lands or private lands in southwest Florida, and the most recent information on Big Cypress fox squirrels on privately owned ranches in Lee and Hendry Counties is from a very brief survey conducted in 1989 (Wooding 1997). Studies as described in this finding and in our available literature indicate the Big Cypress fox squirrel has lost habitat in some areas to urbanization, agriculture, and mining. Nevertheless, conservation lands cover 58 percent of this subspecies' historic range, and areas of habitat exist on private ranches and other urban areas.

Based on the best available information, potential Big Cypress fox squirrel habitat appears to be more than twice what was previously estimated. In addition, the Big Cypress fox squirrel still occupies most of its historic range in southwest Florida and has shown itself to be adaptable, by residing in altered habitats such as golf courses and residential areas where native habitat is preserved, and mobile in its native habitat. Furthermore, quantitative or substantial information on the Big Cypress fox squirrel, its status, and its habitat use and requirements is lacking. Therefore, based on uncertainties about how this fox squirrel uses its native habitat and on the actual status of the Big Cypress fox squirrel population, and due to the amount of available potential habitat to this fox squirrel, we cannot conclude that the Big Cypress fox squirrel is threatened or endangered due to the destruction or curtailment of its habitat or range.

We found no evidence that the species is threatened by overutilization for commercial, recreational, or educational purposes (i.e., poaching), nor by disease or predation. We also have no data to show that inadequacies in the existing regulatory mechanisms may threaten the survival of the Big Cypress fox squirrel. Thus, we cannot conclude that the Big Cypress fox squirrel qualifies for listing as an endangered or threatened species due to any of the five factors as defined in the Act. Because the available information does not demonstrate that the Big Cypress fox squirrel meets the definition of threatened or endangered, we find that listing the Big Cypress fox squirrel (*Sciurus niger avicennia*) as threatened is not warranted at the present time.

References Cited

A complete list of all references cited in this document, as well as others, is available upon request from the South Florida Ecological Services Office (see **ADDRESSES** section).

Author

The primary author of this document is David L. Martin (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: February 15, 2002.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 02–4336 Filed 2–22–02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 011018255–1255–01; I.D. 071001F]

RIN 0648–AO51

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 11

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 11 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Amendment 11), as prepared and submitted by the Gulf of Mexico Fishery Management Council. This proposed

rule would require owners or operators of all vessels harvesting shrimp in the exclusive economic zone of the Gulf of Mexico (Gulf EEZ) to obtain a commercial vessel permit for Gulf shrimp; prohibit the use of traps to harvest royal red shrimp in the Gulf EEZ; and prohibit the transfer of royal red shrimp at sea. The permit requirement would provide an accurate and efficient method of identifying and quantifying the number of vessels in the Gulf EEZ shrimp fishery. The prohibition of the use of traps for royal red shrimp is intended to prevent gear conflict and potential overfishing. The prohibition on transfer of royal red shrimp at sea is intended to enhance enforceability of the prohibition on use of traps in the fishery.

DATES: Comments must be received no later than 4:30 p.m., eastern standard time, on April 11, 2002.

ADDRESSES: Written comments on the proposed rule should be sent to Dr. Steve Branstetter, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or Internet.

Requests for copies of Amendment 11, which includes an environmental assessment and regulatory impact review (RIR), should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619–2266; telephone: 813–228–2815; fax: 813–225–7015; e-mail: gulfcouncil@gulfcouncil.org. Copies of the Gulf of Mexico Fishery Management Council's Minority Report on Amendment 11 may also be obtained from the same address.

Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to Robert Sadler, Southeast Regional Office, NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Dr. Steve Branstetter, telephone: 727–570–5305, fax: 727–570–5583, e-mail: Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for shrimp in the Gulf EEZ is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council), approved by NMFS, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Need for a Federal Commercial Vessel Permit for Gulf Shrimp

The shrimp fishery is the largest fishery in terms of numbers of fishing vessels and participants in the Gulf of Mexico, but is one of the few federally managed fisheries with no fishing permit requirement. Some data collection and vessel identification systems exist through either state or Federal programs, but none is comprehensive or specifically identifies shrimp fishing vessels that fish in the EEZ. NMFS maintains two record systems, each with a limited purpose. The Shrimp Landing File (SLF) contains landings by individual shrimp vessels over the course of a year. The Vessel Operating Units File (VOUF) is similar, but the purpose of this file is to maintain a record of vessel characteristics (i.e., length, age, horsepower, etc.) for all active shrimp fishing vessels during a particular year. Neither the SLF nor VOUF contains contact information for the owner, and neither indicates whether the vessel fishes in the Gulf of Mexico EEZ. Similarly, state licensing files list active fishing vessels, but these files do not provide information on whether vessels fish in state or Federal waters, or both. In some instances, these vessel licenses are not specific to a fishery; thus, they do not readily identify shrimp fishing vessels as opposed to vessels operating in other fisheries. Trip ticket systems are not used by all the states, nor is the data collection uniform among those states that do have a trip ticket system. Although the GulfFIN program, as administered by the Gulf States Marine Fisheries Commission, will standardize this information, this program is still under development. NMFS has supported the development of a national Vessel Identification System under the auspices of the US Coast Guard (USCG). However, the USCG is still reviewing options to implement this system, and its implementation is not anticipated in the near future.

Because existing vessel identification systems are not comprehensive nor do they specifically identify shrimp fishing vessels that fish in the EEZ, the Council concluded that a Federal vessel permit requirement for the shrimp fishery of the Gulf of Mexico was necessary to identify accurately the universe of vessels that fish for shrimp in the Gulf of Mexico EEZ and, thereby, to facilitate scientific assessments of annual fishing effort. The database would provide an enumeration of the vessels that would be authorized to fish for shrimp in the EEZ on an annual basis. A Federal permit system is a prerequisite tool for designing a statistically robust data collection program to canvass or randomly sample the activities of the shrimp fishery in the EEZ. Previous data collection programs were hampered by the inability to specifically identify the universe of vessels fishing for shrimp in the Gulf EEZ. The results of NMFS' 1992–1996 incidental harvest research program, as well as the Council's subsequent actions implemented in Amendment 9, which were based on the results of that program, have been questioned because the sampling was not conducted through a stratified random sampling effort. Similarly, during the summer 1998 Red Snapper/Shrimp Research Program, the Southeast Fisheries Science Center (SEFSC) attempted to implement a trial logbook program. That attempt was only partially successful because it failed to reach many of the intended participants in a timely manner. Without information to identify readily the participants in the fishery, sampling programs have depended on non-random sampling. A more robust analysis of the shrimp fishery is only possible through stratified random sampling of the existing fleet, and that kind of sampling is only possible where the specific vessels are readily identifiable. The permit system will serve as a source to identify a representative stratified random sample of shrimp vessels. Once the Agency has more accurately determined the number of fishery participants through the permit system, sample groups will be used to conduct research to collect biological, fishery, social, and economic data on the fishery, through use of observers, vessel monitoring systems, or other data collection methods. Anticipated improvements from the permitting and subsequent sampling procedures would include more precise red snapper bycatch estimation and more accurate determinations of economic and community impacts. Information collected under such future programs would aid in the formulation of sound management measures for the shrimp fishery and those finfish fisheries that are affected by bycatch and bycatch mortality arising from the shrimp fishery. Therefore, the Council concluded that a requirement for a Federal commercial vessel permit for the shrimp fishery in the Gulf EEZ should enhance the capability to achieve and maintain sustainable fisheries in the Gulf of Mexico.

Two Council members submitted a minority report expressing opposition to the implementation of Amendment 11. Their opposition was based on their belief that the permit requirements in Amendment 11 are inconsistent with national standards 5, 6, 7, and 8 of the Magnuson-Stevens Act, are devoid of adequate rationale, and will result in additional bureaucracy and costs. Copies of the minority report are available from the Council (see **ADDRESSES**).

Commercial Vessel Permit Requirement

This proposed rule would require an owner or operator of a vessel that fishes for shrimp in the Gulf EEZ or possesses shrimp in or from the Gulf EEZ to have a valid commercial vessel permit for Gulf shrimp on board. If Amendment 11 is approved, the permit requirement would become effective 90 days after the effective date of the final rule implementing the amendment. No qualifying criteria (e.g., documentation of landings, earned income from fishing, or other participation requirements) are proposed for the Gulf shrimp permit. If the permit requirement is approved, it would provide an accurate identification of the universe of vessels authorized to fish for shrimp in the Gulf EEZ. Establishing this known universe of vessels would provide the basis for future development of additional data collection programs to evaluate, more comprehensively, the biological, economic, and social characteristics of the fishery. When this information becomes available, the Council would be in a better position to evaluate whether any restrictive criteria for participation in the shrimp fishery should be considered in the future.

Permit Procedures

Required permitting procedures that apply to all Magnuson-Stevens Act permits issued by the Administrator, Southeast Region, NMFS, (RA) and that would apply to a Gulf shrimp permit are specified in 50 CFR 622.4. These procedures include requirements related to the following: application, fees, initial issuance, transferability, permit renewal, permit display, and other permit-related provisions. Basic requirements and procedures are summarized here for the convenience of the reader.

Permit Application

Permit application forms would be available from the RA. Completed application forms would have to be submitted to the RA at least 30 days prior to the date on which the applicant requests to have the permit made effective. However, given the large volume of permit applications anticipated for the Gulf shrimp fishery, NMFS would strongly encourage applicants to submit completed applications as soon as possible after publication of the final rule implementing Amendment 11. Any delay in submitting a completed application could result in an inability to issue a permit prior to the deadline for the permit requirement and, thus, preclude legal fishing for Gulf shrimp until the permit is issued.

The application for a commercial vessel permit would have to be submitted by the owner (in the case of a corporation, an officer or shareholder; in the case of a partnership, a general partner) or operator of the vessel. All vessel permits would be mailed to owners, whether the applicant is an owner or an operator. An applicant would have to provide the following:

(1) A copy of the vessel's valid USCG certificate of documentation or, if not documented, a copy of its valid state registration certificate.

(2) Vessel name and official number.

(3) Name, address, telephone number, and other identifying information of the vessel owner and of the applicant, if other than the owner.

(4) Any other information concerning the vessel, gear characteristics, principal fisheries engaged in, or fishing areas, as specified on the application form.

(5) Any other information that may be necessary for the issuance or administration of the permit, as specified on the application form.

Permit Fees

A fee would be charged for each application for a permit and for each request for replacement of such permit. The amount of each fee would be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RA, for determining the administrative costs of each special product or service. The fee may not exceed such costs and would be specified with each application form. The appropriate fee would have to accompany each permit application or request for permit replacement.

Initial Permit Issuance

The RA would issue an initial permit at any time to an applicant if the application was complete. An application would be complete when all requested forms, information, and documentation had been received. Upon receipt of an incomplete application, the RA would notify the applicant of the deficiency. If the applicant failed to correct the deficiency within 30 days of the date of the RA's letter of notification, the application would be considered abandoned.

Duration

A permit would remain valid for the period specified on it unless it was revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904 or unless the vessel was sold.

Transfer

A vessel permit for Gulf shrimp would not be transferable or assignable. A person who acquired a vessel and desired to conduct activities for which a Gulf shrimp vessel permit would be required would need to apply for a permit. If the acquired vessel was already permitted, the application would need to be accompanied by the original permit and a copy of a signed bill of sale or equivalent acquisition papers.

Renewal

Although a permit would be issued on an annual basis, an application for its renewal would be required only every 2 years. In the interim years, renewal would be automatic (without application) for a vessel owner who had met the specific requirements for the permit, had submitted all reports required under the Magnuson-Stevens Act, and was not subject to a permit sanction or denial of a permit application in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904. An owner whose permit was expiring would be mailed a notification by the RA approximately 2 months prior to its expiration. That notification would advise the status of the renewal. That is, the notification would advise that the renewal would be issued without further action by the owner (automatic renewal); that the permit was ineligible for automatic renewal; or that a new application would be required.

If the RA's notification indicates that the owner's permit would be eligible for automatic renewal, the RA would mail the automatically renewed permit approximately 1 month prior to expiration of the old permit.

If the RA's notification indicates that the owner's permit would be ineligible for automatic renewal, the notification would specify the reasons and would provide an opportunity for correction of any deficiencies. If the owner or dealer did not correct such deficiencies within 60 days after the date of the RA's notification, the renewal would be considered abandoned.

If the RA's notification indicates that a new application would be required, the notification would include a preprinted renewal application. If the RA receives an incomplete application, the RA would notify the applicant of the deficiency. If the applicant failed to correct the deficiency within 30 days of the date of the RA's letter of notification, the application would be considered abandoned.

A vessel owner or dealer who did not receive a notification from the RA regarding status of renewal of a permit by 45 days prior to expiration of the current permit would have to contact the RA.

Display

The vessel permit would have to be carried on board the vessel. The operator of a vessel would have to present the permit for inspection upon the request of an authorized officer.

Prohibition on the Use of Traps in the Royal Red Shrimp Fishery and on Transfer of Royal Red Shrimp At Sea

Royal red shrimp have been a small component of the Gulf of Mexico shrimp fishery since the early 1960s, and are traditionally harvested using modified shrimp trawls at depths exceeding 100 fathoms (183 meters). The Council concluded that allowing trap gear in this fishery would likely lead to gear conflicts and could lead to overfishing. An emergency interim rule prohibiting the use of trap gear in the royal red shrimp fishery within the EEZ of the Gulf of Mexico was promulgated on September 19, 2000, (65 FR 56500), and extended until September 14, 2001 (66 FR 14862, March 14, 2001). The Council requested that NMFS take that emergency action until regulations could be implemented through the proposed amendment to the FMP.

The intended effect of the proposed rule to prohibit the use of traps in this fishery is to prevent gear conflict that could compromise vessel safety and to prevent overfishing in the royal red shrimp fishery. Gear conflicts would otherwise be likely to occur between the traditional trawl fishery and the proposed trap line fishery on the royal red shrimp fishing grounds. This could result in substantial damage and loss of fishing gears and an increase in cost for participants in the fishery. Gear conflicts also would introduce vessel safety issues because of the depth of the fishing effort, the weight of the deployed gears (especially if they become tangled), and the fact that the fishing grounds are far offshore. Additionally, the introduction of new fishing effort could lead to overfishing of the resource. Since 1993, landings from the traditional trawl fishery have ranged from 200,000 to 335,000 lb (90,719 to 151,953 kg), which is approaching the maximum sustainable yield of 392,000 lb (177,808 kg) for the fishery. The prohibition of the transfer of royal red shrimp in the Gulf EEZ and of royal red shrimp taken in the Gulf EEZ regardless of where the transfer takes place is necessary to enhance the enforceability of the prohibition of the use of traps in the fishery.

Additional Information

Additional background and rationale for the measures discussed here are contained in Amendment 11, the availability of which was announced in the **Federal Register** (66 FR 37634; July 19, 2001). The public comment period on Amendment 11 expired on September 17, 2001. All comments received on Amendment 11 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

Classification

On October 17, 2001, NMFS approved Amendment 11 based on a determination that it was consistent with the national standards of the Magnuson-Stevens Act and other applicable law. In making that determination, NMFS took into account the data, views, and comments received during the comment period on Amendment 11.

This proposed rule has been determined to be significant for purposes of Executive Order 12866 because of its controversial nature. Copies of the RIR are available (see **ADDRESSES**).

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The Magnuson-Stevens Act provides the statutory basis for the rule. The proposed rule would: require all vessels (including boats) harvesting shrimp in the Gulf EEZ to obtain a commercial vessel permit for Gulf shrimp; prohibit the use of traps to harvest royal red shrimp in the Gulf EEZ; and prohibit the transfer of royal red shrimp at sea.

This permit requirement is needed to identify and quantify the number of vessels in the shrimp fishery of the Gulf EEZ. Under the existing FMP, shrimp vessels in the Gulf EEZ are not required to have federal permits. Consequently, the only means of determining the numbers of vessels operating in the Gulf EEZ are through NMFS' shrimp landings file (SLF), NMFS' vessel operating units file (VOUF), and state license files. Some states require licenses for shrimp vessels while others only license the activity (commercial landings). These data sources do not provide an accurate and direct means of determining the numbers of vessels participating in the shrimp fishery in the Gulf EEZ.

Mandatory vessel permitting proved to be an effective way of obtaining information on the number of potentially active vessels and participants in other commercial and for-hire fisheries operating in the Gulf EEZ, including the reef fish and coastal migratory pelagics fisheries. These data combined with logbook reporting, observer reports, and other surveys provided managers with essential information on effort, catch, bycatch, and other important parameters regarding these fisheries. Having a known universe of vessels operating in the Gulf EEZ shrimp fishery will help provide the same opportunities for scientists and managers to collect data on effort, catch, bycatch, and other important parameters of both targeted shrimp stocks, as well as bycatch species that may or may not be under separate management regimes. Presently, without permits, the numbers of vessels that operate in the Gulf EEZ shrimp fishery can only be estimated using the SLF, VOUF, and/or state license files.

The royal red shrimp fishery in the Gulf traditionally operated as a trawl fishery. Traps are not included on the list of allowable gear for the royal red shrimp fishery, or the penaeid shrimp fishery in general. However, a recent request to allow trap gear was considered and denied due to potential gear conflicts and the increased possibility of exceeding maximum sustainable yield as a result of this new effort. The prohibition on the use of traps was implemented through an emergency interim rule which expired on September 14, 2001. Consequently, unless a more permanent prohibition through a plan amendment is implemented, future use of trap gear could occur legally under 50 CFR, Part 600.747. The prohibition on the transfer of royal red shrimp at sea is intended to enhance enforceability of the prohibition of the use of traps in the fishery. The transfer prohibition is not expected to impact fishery participants using authorized gear, i.e. trawls, since transfer at sea has not been and is not a customary practice in the royal red shrimp fishery.

Generally, a fish-harvesting business is considered a small business if it is independently owned and operated and not dominant in its field of operation, and if it has annual receipts not in excess of $3.0 million. Although there are several fleet operations in the Gulf shrimp fishery, their actual number is not known, in part due to the lack of permit data. Considering the low likelihood that these operations are dominant in the harvesting sector of the shrimp fishery, the gross receipts criterion may be used to define a small business in the shrimp fishery.

Based on SLF and VOUF, the number of shrimp vessels in the Gulf ranges from approximately 3,500 to 5,000. State license files indicate that there are 13,163 shrimp boats in the Gulf. The proposed Gulf shrimp vessel permit would be required on all shrimp vessels fishing in the EEZ. This would affect practically all shrimp vessels

and at least some shrimp boats. The number of affected shrimp boats is unknown, but will ultimately depend on the number of boats that prosecute the EEZ component of the fishery.

Ward et al. (1995) reported that the average gross revenues for shrimp vessels are approximately $82,000 (converted to 1999 prices, based on the producer price index (PPI) for all commodities). One standard deviation from this average provides a range of $16,000 to $425,000. Considering that even the upper limit of the revenue range is well below the $3.0 million threshold, all shrimp vessel operations, and thus undoubtedly all shrimp boat operations as well, are small business entities. Thus, the substantial number criterion would be met. Within these small entities, significant variations of revenues occur by size of vessels and by home port state. Ward et al. (1995) estimated that average annual revenues of shrimp vessels in the Gulf (as adjusted by the PPI in 1999) by length of vessel are: $4,000 for vessels less than 25 ft (7.6 m), $23,000 for vessels between 25 and 50 ft (7.6 and 15.2 m) and, $198,000 for vessels greater than 50 ft (15.2 m). Broken down by homeport state, the average annual revenues of shrimp vessels are: $112,000 for Alabama, $106,000 for Florida, $9,000 for Louisiana, $45,000 for Mississippi, and $192,000 for Texas.

For purposes of NMFS' rules, the determination whether a ''significant economic impact'' results is determined by examining two issues: disproportionality and profitability. To determine disproportionate impacts, the pertinent question is whether the regulations place a substantial number of small entities at a significant competitive disadvantage compared to large entities. All the commercial entities potentially affected by the proposed rule are considered small entities so that the issue of disproportionality does not arise in the present case. The pertinent question in determining profitability is whether the regulations significantly reduce profit for a substantial number of small entities. Ward et al. (1995) estimated the profits (total revenues less total costs) of shrimp vessels in the Gulf. The average net revenues (profits) for a shrimp vessel in the Gulf are approximately $12,000 (converted to 1999 prices, based on the producer price index (PPI) for all commodities). Average profit for vessels by vessel length are: $1,598 for vessels less than 25 ft (7.6 m), $7,949 for vessels between 25 and 50 ft (7.6 and 15.2 m), and $8,457 for vessels greater than 50 ft (15.2 m). Broken down by homeport state, average profits are: $4,769 for Alabama, $29,832 for Florida, $3,286 for Louisiana, $13,876 for Mississippi, and $11,452 for Texas. The cost of a vessel permit is $50. Thus, the permit costs as a percent of profit would be approximately 0.4 percent per vessel on average. By vessel size category, permit costs as a percentage of profits would be 3.1 percent for vessels less than 25 ft (7.6 m), 0.6 percent for vessels between 25 and 50 ft (7.6 and 15.2 m), and 0.6 percent for vessels greater than 50 ft (15.2 m). By homeport state, permit costs as a percentage of profits would be 1.0 percent for Alabama vessels, 0.2 percent for Florida vessels, 1.5 percent for Louisiana vessels, 0.4 percent for Mississippi vessels, and 0.4 percent for Texas vessels.

Traps have not been an allowable gear in the royal red shrimp fishery prior to this rule, due to, first, their exclusion from the allowable gear list for this fishery and, second, an emergency interim rule prohibiting their use that expired on September 14, 2001. Although only one fisherman has petitioned to use trap gear in the royal red shrimp fishery, designation of the gear as allowable for this fishery, which will occur automatically without promulgation of this rule, would make it available to all fishermen. It is indeterminate, however, how many fishermen might elect to utilize the gear or how said use would affect the economic performance of the fishing operations. Although it can probably be presumed that the petitioning fisherman may have intended to test the gear, extension of same to any portion of other fishermen is without empirical basis. Further, in the absence of economic data on the use of trap gear in this fishery, it is not possible to precisely characterize potential foregone opportunity. The historical lack of interest in the use of trap gear in the royal red shrimp fishery, as evidenced by the single petition for allowance, suggests that the economic rationale for its use is not strong, leading to a conclusion that continued prohibition would not generate significant adverse economic impacts in terms of foregone opportunity. Further, although it is not known whether the petitioning fisherman made investments in the gear prior to either it's approval or testing, significant investment prior to such would not have been financially sound and is unlikely to have occurred. With regard to transfer at sea, since this practice does not occur in the royal red shrimp fishery, this prohibition will not generate any adverse impacts. The permit costs, $50.00 per vessel, and burden time, $4.00 per vessel, (estimated at 20 minutes per permit application) are the only costs imposed by the permitting requirement. The estimated vessel cost is $54.00 per vessel and $378,000 for the industry for the first year. As such, the proposed rule would not effect a significant reduction in vessel profits. Therefore, the proposed rule would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis was not required.

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

This proposed rule contains collection-of-information requirements subject to the PRA--namely, a requirement to submit an application for a Gulf shrimp commercial vessel permit and a vessel identification requirement. In addition, NMFS intends to revise the Multiple Fishery Vessel Application (Application) that will be used for the Gulf shrimp permit and is used for other fishery permits issued by the NMFS Southeast Regional Office. NMFS intends to add data fields for the applicant's birth date, street address, and county; vessel net tonnage; vessel gross tonnage, and vessel hull identification number. The permit application requirement and the new application data field requirements have been submitted to OMB for approval. The public reporting burden for the collection of information related to the Gulf shrimp permit application and the additional data elements on the Application is estimated to average 20 minutes per response. This estimate of the public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. The vessel identification requirement was previously approved by OMB under control number 0648–0358, with an estimated response time of 45 minutes total per vessel.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of the collection-of-information requirements, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: February 19, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs,National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.2, the definition of ''Shrimp'' is revised to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Shrimp means one or more of the following species, or a part thereof:

(1) Brown shrimp, *Farfantepenaeus aztecus.*

(2) White shrimp, *Litopenaeus setiferus.*

(3) Pink shrimp, *Farfantepenaeus duorarum.*

(4) Royal red shrimp, *Hymenopenaeus robustus.*

(5) Rock shrimp, *Sicyonia brevirostris.*

(6) Seabob shrimp, *Xiphopenaeus kroyeri.*

* * * * *

3. In § 622.4, paragraph (a)(2)(xi) is added to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(xi) *Gulf shrimp.* For a person aboard a vessel to fish for shrimp in the Gulf EEZ or possess shrimp in or from the Gulf EEZ, a valid commercial vessel permit for Gulf shrimp must have been issued to the vessel and must be on board.

* * * * *

4. In § 622.6, paragraph (a)(1)(i) introductory text is revised to read as follows:

§ 622.6 Vessel and gear identification.

(a) * * *

(1) * * *

(i) *Official number.* A vessel for which a permit has been issued under § 622.4 must display its official number--

* * * * *

5. In § 622.31, paragraph (k) is added to read as follows:

§ 622.31 Prohibited gear and methods.

* * * * *

(k) *Traps for royal red shrimp in the Gulf EEZ and transfer at sea.* A trap may not be used to fish for royal red shrimp in the Gulf EEZ. Possession of a trap and royal red shrimp on board a vessel is prohibited. A trap used to fish for royal red shrimp in the Gulf EEZ may be disposed of in any appropriate manner by the Assistant Administrator or an authorized officer. In addition, royal red shrimp cannot be transferred in the Gulf EEZ, and royal red shrimp taken in the Gulf EEZ cannot be transferred at sea regardless of where the transfer takes place.

[FR Doc. 02–4451 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 37
Monday, February 25, 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.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

General Accounting Office, Administrative Practice and Procedure, Bid Protest Regulations, Government Contracts

AGENCY: General Accounting Office.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The General Accounting Office (GAO) is reviewing, and will be revising, its Bid Protest Regulations, promulgated in accordance with the Competition in Contracting Act of 1984. GAO last revised Part 21 in 1996, and believes that developments since that time warrant updating the Regulations to reflect current practice. In connection with this effort, GAO also is soliciting comments on how its Regulations should be revised to improve the overall efficiency and effectiveness of the bid protest process at GAO.

DATES: Comments must be submitted on or before April 1, 2002.

ADDRESSES: Comments should be addressed to: John M. Melody, Assistant General Counsel, General Accounting Office, 441 G Street, NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: John M. Melody (Assistant General Counsel) or David A. Ashen (Deputy Assistant General Counsel), 202–512–9732.

SUPPLEMENTARY INFORMATION: GAO is considering revising its Bid Protest Regulations, in accordance with the Competition in Contracting Act of 1984, 31 U.S.C. 3555(a). Revisions are being considered in several areas to take into account legal developments and changes in practice that have occurred since the 1996 revision. Among the changes being considered are the following:

Section 21.0(g) currently states that a document may be filed by hand delivery, mail, or commercial carrier, and then goes on to state that parties wishing to file by facsimile transmission or other electronic means must ensure that the necessary equipment at GAO's Procurement Law Group is operational. GAO is not aware that there has been any significant confusion regarding acceptable means of filing protests and other documents. However, in light of our experience that documents commonly are filed by facsimile transmission, and our recent initiative to permit electronic filing, we believe this paragraph should clarify that filing by facsimile transmission is permitted (and, in fact, is commonplace), and that electronic filing (E-mail) of protest documents is permitted under certain circumstances.

Alternate dispute resolution (ADR) is utilized regularly by GAO as a means of resolving bid protests in an efficient, expeditious manner, but there is no language in the Bid Protest Regulations identifying it as such. Since a substantial number of cases have been found to be suitable for resolution using ADR, and it is anticipated that this will remain the case, GAO is considering adding language to reflect this practice.

Under the timeliness provisions of § 21.2(a)(2), where a debriefing is requested and required, any protest basis that is known or should have been known, either before or as a result of the debriefing, shall not be filed prior to the debriefing date offered to the protester. This rule has had the unintended result, in a very few cases, of leading protesters to delay—until after a debriefing—protesting a matter that arose during the procurement (for example, an alleged Procurement Integrity Act violation), prior to award. As it has long been GAO's view that it is beneficial to the procurement system to have alleged procurement deficiencies resolved, where possible, at the time the alleged deficiency arises, GAO is considering revising § 21.2(a)(2) to provide guidance in this area.

Section 21.5(c) provides that GAO will consider affirmative determinations of responsibility only under very limited circumstances, reflecting GAO's long held view that such determinations are so subjective that they do not lend themselves to reasoned review. In January 2001, the Court of Appeals for the Federal Circuit, in its decision *Impresa Construzioni Geom. Domenico Garufi* v. *United States,* 238 F.3d 1324 (Fed. Cir. 2001) held that affirmative determinations of responsibility by contracting officers are reviewable by the Court of Federal Claims under the ''arbitrary and capricious'' standard applicable under the Administrative Procedures Act. In light of the Federal Circuit's decision, GAO is considering whether to revise its Regulations in this area.

GAO welcomes comments on these considerations, as well as suggestions for changes to other areas of the Regulations that may enhance the efficiency and overall effectiveness of the bid protest process.

Comments may be submitted by hand delivery or mail to the address in the address line, by e-mail at *BidProtestRegs.gao.gov,* or by facsimile at 202–512–9749.

Anthony H. Gamboa,
General Counsel.

[FR Doc. 02–4337 Filed 2–22–02; 8:45 am]
BILLING CODE 1610–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM205; Special Conditions No. 25–01–05–SC]

Special Conditions: Fairchild Dornier GmbH, Model 728–100; Sudden Engine Stoppage

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Fairchild Dornier GmbH Model 728–100 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes, associated with engine size and torque load which affects sudden engine stoppage. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before April 11, 2002.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM205, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: *Docket No. NM205.* Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Groves, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1503; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this notice between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change the proposed special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On May 5, 1998, Fairchild Dornier GmbH applied for a type certificate for their new Model 728–100 airplane. The Model 728–100 airplane is a 70–85 passenger twin-engine regional jet with a maximum takeoff weight of 77,600 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Fairchild Dornier must show that the Model 728–100 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–96. Fairchild Dornier GmbH has also applied to extend the certification basis to include Amendments 25–97, 25–98, and 25–104.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model 728–100 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2). Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101(a)(1).

In addition to the applicable airworthiness regulations and special conditions, the Model 728–100 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Novel or Unusual Design Features

The Fairchild Dornier GmbH Model 728–100 airplane will incorporate novel or unusual design features involving engine size and torque load that affect sudden engine stoppage conditions. Fairchild Dornier GmbH proposes to treat the sudden engine stoppage condition resulting from structural failure as an ultimate load condition. Section 25.361(b)(1) of part 25 specifically defines the seizure torque load, resulting from structural failure, as a limit load condition.

Discussion

The limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming) has been a specific requirement for transport category airplanes since 1957. The size, configuration, and failure modes of jet engines have changed considerably from those envisioned when the engine seizure requirement of § 25.361(b) was first adopted. Current engines are much larger and are now designed with large bypass fans capable of producing much larger torque loads if they become jammed. It is evident from service history that the frequency of occurrence of the most severe sudden engine stoppage events are rare.

Relative to the engine configurations that existed when the rule was developed in 1957, the present generation of engines are sufficiently different and novel to justify issuance of special conditions to establish appropriate design standards. The latest generation of jet engines are capable of producing, during failure, transient loads that are significantly higher and more complex than the generation of engines that were present when the existing standard was developed. Therefore, the FAA has determined that special conditions are needed for the Fairchild Dornier GmbH Model 728–100 airplane.

In order to maintain the level of safety envisioned in § 25.361(b), a more comprehensive criteria is needed for the new generation of high bypass engines. The proposed special conditions would distinguish between the more common seizure events and those rarer seizure events resulting from structural failures. For these rarer but severe seizure events, the proposed criteria could allow some deformation in the engine supporting structure (ultimate load design) in order to absorb the higher energy associated with the high bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by providing a higher safety factor. The criteria for the more severe events would no longer be a pure static torque load condition, but would account for the full spectrum of transient dynamic loads developed from the engine failure condition.

Applicability

As discussed above, these special conditions are applicable to the Fairchild Dornier GmbH Model 728–100 airplane. Should Fairchild Dornier apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of section 21.101(a)(1). Fairchild Dornier has submitted applications for certification

of both increased and reduced passenger capacity derivatives of the Model 728–100 airplane. These derivative models are designated the Model 928–100 airplane and the Model 528–100 airplane, respectively. As currently proposed, these derivative models share the same design feature of a high-bypass ratio fan jet engine as the Model 728–100 airplane, and it is anticipated that they will be included in the applicability of these proposed special conditions.

Conclusion

This action affects only certain novel or unusual design features on the Fairchild Dornier GmbH Model 728–100 airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Fairchild Dornier GmbH Model 728–100 airplanes.

1. *Sudden Engine Stoppage.* In lieu of compliance with 14 CFR 25.361(b), the following special conditions apply:

a. For turbine engine installations, the engine mounts, pylons and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

(1) Sudden engine deceleration due to a malfunction which could result in a temporary loss of power or thrust.

(2) The maximum acceleration of the engine.

b. For auxiliary power unit installations, the power unit mounts and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by the each of the following:

(1) Sudden auxiliary power unit deceleration due to malfunction or structural failure.

(2) The maximum acceleration of the auxiliary power unit.

c. For engine supporting structure, an ultimate loading condition must be considered that combines 1g flight loads with the transient dynamic loads resulting from each of the following:

(1) The loss of any fan, compressor, or turbine blade.

(2) Where applicable to a specific engine design, and separately from the conditions specified in paragraph 1.(c)(1), any other engine structural failure that results in higher loads.

d. The ultimate loads developed from the conditions specified in paragraphs (c)(1) and (c)(2) above are to be multiplied by a factor of 1.0 when applied to engine mounts and pylons and multiplied by a factor of 1.25 when applied to adjacent supporting airframe structure.

Issued in Renton, Washington, on February 13, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–4411 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM212; Notice No. 25–02–04–SC]

Special Conditions: Airbus Industrie, Model A340–500 and –600 Airplanes; Sudden Engine Stoppage

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for Airbus Industries Model A340–500 and –600 airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes, associated with engine size and torque load, which affects sudden engine stoppage. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: Comments must be received on or before March 27, 2002.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM212, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM212. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Tim Backman, FAA, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2797; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comments closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expenses or delay. We may change this proposal for special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On November 14, 1996, Airbus Industries applied for an amendment to U.S. type certificate (TC) A43NM to include the new Models A340–500 and –600. These models are derivatives of the A340–300 airplane, which is approved under the same TC.

The Model A340–500 fuselage is a 6-frame stretch of the Model A340–300

and is powered by 4 Rolls Royce Trent 553 engines, each rated at 53,000 pounds of thrust. The airplane has interior seating arrangements for up to 375 passengers, with a maximum takeoff weight (MTOW) of 820,000 pounds. The Model 340–500 is intended for long-range operations and has additional fuel capacity over that of the model A340–600.

The Model A340–600 fuselage is a 20-frame stretch of the Model A340–300 and is powered by 4 Roll Royce Trend 556 engines, each rated at 56,000 pounds of thrust. The airplane has interior seating arrangements for up to 440 passengers, with a MTOW of 804,500 pounds.

Type Certificate Basis

Under the provisions of 14 CFR § 21.101, Airbus Industrie must show that the Model A340–500 and –600 airplanes meet the applicable provisions of the regulations incorporated by reference in TC A43NM or the applicable regulations in effect on the date on the date of application for the change to the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in TC A43NM are 14 CFR part 25 effective February 1, 1965, including Amendments 25–1 through 25–63 and Amendments 25–64, 25–65, 25–66, and 25–77, with certain exceptions that are not relevant to these proposed special conditions.

In addition, if the regulations incorporated by reference do not provide adequate standards with respect to the change, the applicant must comply with certain regulations in effect on the date of application for the change. The FAA has determined that the Model A340–500 and –600 airplanes must be shown to comply with 14 CFR 25–1 through 25–91, with certain FAA-allowed reversions for specific part 25 regulations to the part 25 amendment levels of the original type certification basis.

Airbus has also chosen to comply with part 25 as amended by Amendments 25–92,–93,–94,–95,–97,–98, and –104.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Airbus Industrie Model A340–500 and–600 because of a novel or unusual design feature, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Industrie Model A340–500 and –600 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with 14 CFR 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101(a)(1).

Novel or Unusual Design Features

The Airbus Model A340–500 and A340–600 airplanes will incorporate novel or unusual design features involving engine size and torque load that affect sudden engine stoppage conditions. Airbus Industrie proposes to treat the sudden engine stoppage condition resulting from structural failure as an ultimate load condition. Section 25.361(b)(1) of part 25 specifically defines the seizure torque load resulting from structural failure as a limit load condition.

Discussion

The limit engine torgue load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming) has been a specific requirement for transport category airplanes since 1957. The size, configuration, and failure modes of jet engines have changed considerably from those envisioned when the engine seizure requirement of § 25.361(b) was first adopted. Current engines are much larger and are now designed with large bypass fans capable of producing much larger torque loads if they become jammed. It is evident from service history that the frequency of occurrence of the most severe sudden engine stoppage events are rare.

Relative to the engine configurations that existed when the rule was developed in 1957, the present generation of engines are sufficiently different and novel to justify issuance of special conditions to establish appropriate design standards. The latest generation of jet engines are capable of producing, during failure, transient loads that are significantly higher and more complex than the generation of engines that were present when the existing standard was developed. Therefore, the FAA has determined that special conditions are needed for the Model A340–500 and –600 airplanes.

In order to maintain the level of safety envisioned in § 25.361(b), a more comprehensive criteria is needed for the new generation of high bypass engines. The proposed special conditions would distinguish between the more common seizure events and those rarer seizure events resulting from structural failures. For these rarer but severe seizure events, the proposed criteria could allow some deformation in the engine supporting structure (ultimate load design) in order to absorb the higher energy associated with the high bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by providing a higher safety factor. The criteria for the more severe events would no longer be a pure static torque load condition, but would account for the full spectrum of transient dynamic loads developed from the engine failure condition.

Applicability

These special conditions are applicable to the Airbus Model A340–500 and –600 ailplanes. Should Airbus Industries apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects certain novel or unusual design features on the Model A340–500 and A340–600 airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, The Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Airbus Industrie Model A340–500 and –600 airplanes.

The following special conditions are proposed in lieu of compliance with 14

CFR 25.361(b) and in lieu of the previously issued special conditions, Limit Engine Torque,'' recorded as item 9 of Special Conditions No. 25–ANM–69 (Docket No. NM–75), Airbus industrie Model A340 Series Airplanes.

1. *Sudden Engine Stoppage.*

(a) For turbine engine installations, the engine mounts, pylons and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

(1) Sudden engine deceleration due to a malfunction which could result in a temporary loss of power or thrust.

(2) The maximum acceleration of the engine.

(b) For auxiliary power unit installations, the power unit mounts and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposing by each of the following:

(1) Sudden auxiliary power unit deceleration due to malfunction or structural failure.

(2) The maxium acceleration of the auxiliary power unit.

(c) For engine supporting structure, an ultimate loading condition must be considered that combines 1g flight loads with the transient dynamic loads resulting from each of the following:

(1) The loss of any fan, compressor, or turbine blade.

(2) Where applicable to a specific engine design, and separately from the conditions specified in paragraph 1.(c)(1), any other engine structural failure that results in higher loads.

(d) The ultimate loads developed from the conditions specified in paragraphs (c)(1) and (c)(2) above are to be multiplied by a factor of 1.0 when applied to engine mounts and pylons and multiplied by a factor of 1.25 when applied to adjacent supporting airframe structure.

Issued in Renton, Washington, on February 13, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–4410 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–13–M

POSTAL SERVICE

39 CFR Part 255

Access of Persons with Disabilities to Postal Service Programs, Activities, Facilities, and Electronic and Information Technology

AGENCY: Postal Service.

ACTION: Proposed rule with request for comments.

SUMMARY: The Postal Service is proposing to amend its regulations in order to implement section 508 of the Rehabilitation Act of 1973, as amended. Section 508 requires Federal agencies to ensure that the electronic and information technology (EIT) they procure allows individuals with disabilities access to EIT comparable to the access of those who are not disabled, unless the agency would incur an undue hardship. The statute was amended by the Workforce Investment Act of 1998 to add enforcement provisions and to require agencies to add a complaint process for section 508. The complaint process for members of the public who are disabled is outlined here in part 255. The complaint process for employees and applicants who are disabled is set forth in the Postal Service's Handbook EL–603, *Equal Employment Opportunity Complaint Processing*.

DATES: Written comments must be received on or before March 27, 2002.

ADDRESSES: Written comments should be mailed to Office of the Consumer Advocate, United States Postal Service, 475 L'Enfant Plaza, SW., Room 5801, Washington, DC 20260–2200. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the Corporate Library, United States Postal Service, 475 L'Enfant Plaza, SW., Room 11800, Washington, DC 20260, (202) 268–2900.

FOR FURTHER INFORMATION CONTACT: Joan C. Goodrich, (202) 268–3047 or Christine M. Taylor, (202) 268–3017.

SUPPLEMENTARY INFORMATION: The Workforce Investment Act of 1998, Pub. L. 105–220, 112 Stat. 936 (1998), amending section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d, was signed into law on August 7, 1998. In addition to the provisions outlined above, the act required the Architectural and Transportation Barriers Compliance Board (Access Board) to publish standards defining EIT and setting forth the technical and functional performance criteria necessary to accessibility for such technology. The act, which was effective August 7, 2000, also required the Access Board to publish its final standards by February 7, 2000.

On July 13, 2000, the Military Construction Appropriations Act for Fiscal Year 2001, Pub. L. 106–246, which contained an amendment to section 508, was signed into law. Public Law No. 106–246 delayed the effective date for enforcement of section 508 to 6 months from the publication of the Access Board's final standards. The Access Board's final standards were published on December 21, 2000, in 65 FR 80500–80528. The effective date for enforcement of section 508 became June 21, 2001. In accordance with the statutory requirements outlined above, the Postal Service is initiating this notice of proposed rulemaking adding a complaint process for section 508 to its regulations.

Section-by-Section Analysis

Section 255.1 Purpose

This new section is added to describe the purposes of part 255. These purposes are to implement sections 504 and 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §§ 794, 794d. Another purpose is to state that the EIT standards set forth in part 255 are intended to be consistent with the standards of the Access Board announced in the **Federal Register** on December 21, 2000.

Former *Section 255.1 Discrimination against handicapped persons* has been renamed and renumbered as *Section 255.3 Nondiscrimination under any program or activity conducted by the Postal Service*.

Section 255.2 Definitions

This new section has been added to provide definitions of the terms used in part 255. A number of definitions have been added to clarify words and concepts already in part 255. New definitions were added for the new terms associated with section 508. There is a change in terms from ''handicapped person'' to ''individual with a disability,'' but the definition of who is ''disabled'' remains the same. This change was made to reflect the change in terminology in the Rehabilitation Act. Prior *Section 255.2 Special Arrangements for postal services is now Section 255.7 Special arrangements for postal services*.

Section 255.3 Nondiscrimination Under any Program or Activity Conducted by the Postal Service

This section states the prohibition against discrimination based upon

disability in federally conducted programs or activities that is contained in section 504 of the Rehabilitation Act. It originally appeared in former section 255.1(a). The words ''handicapped'' and ''handicap'' have been removed and replaced with ''disability.''

Section 255.4 Accessibility to Electronic and Information Technology

This section is new. It states the standards set forth in section 508 of the Rehabilitation Act which apply to making EIT accessible to individuals with disabilities. It also specifics the obligations of the Postal Service where providing access to EIT would pose an undue burden.

Section 255.5 Employment

This section states the prohibition against discrimination in employment based upon disability that is contained in section 501 of the Rehabilitation Act, as amended, 29 U.S.C. § 791. It was previously found at section 255.1(d). The word ''handicapped'' has been removed and replaced with ''disability.''

Section 255.6 Complaint Procedures

This section adds section 508 to the existing complaint process for section 504. It revises and clarifies the complaint process.

(a) Applicability

This paragraph explains that the procedures of part 255 apply to alleged violations of section 504 and section 508 brought by members of the public.

(b) Employment Complaints

Subparagraph (1) explains that complaints brought by applicants and employees alleging violations of section 504 with respect to employment will be processed by the Postal Service in accordance with the procedures established by the Equal Employment Opportunity Commission (EEOC) in 29 CFR part 1614 under the authority of section 501 of the Rehabilitation Act. The Postal Service's own procedures following part 1614 are found in Handbook EL–603, *Equal Employment Opportunity Complaint Processing.*

Previously, the section on employment complaints was found at section 255.1(d). The reference to the *Employee and Labor Relations Manual* was deleted and replaced with the reference to Handbook EL–603 because the complaint processing procedures were removed from the manual and placed into the handbook. The reference to part 1614 was added to clarify where the EEOC regulations are found. The term ''handicapped'' was removed and replaced with ''disability.''

Subparagraph (2) is new and explains that complaints brought by applicants and employees alleging violations of section 508 and involving employment will be processed in accordance with the new section 508 procedures added to Handbook EL–603.

(c) Complaints by Members of the Public

Section 508 has been added to the former complaint process for section 504. The former process, previously found at section 255.1(c), has been modified to include an informal stage and a formal stage. A requirement that a complainant shall first exhaust informal administrative procedures before filing a formal complaint has been added.

Subparagraphs (1) (i) through (iii) outline the informal procedures for sections 504 and 508. The procedures retain the 60-day requirement for resolution of a complaint at the informal stage. The informal process focuses on resolution of the complaint at the local level and provides an automatic review by higher level managers. A written decision on the informal complaint must be issued on or before the 60th day by the area/functional vice president. Addition of the area/functional vice president as the final level of review was added to ensure accountability at the highest level.

Subparagraphs (2)(i) through (iv) outline the formal procedures for sections 504 and 508. If the complainant wishes to pursue the complaint beyond the informal stage, s/he may file a formal complaint with the Vice President and Consumer Advocate. If the complainant files a formal complaint, s/he must exhaust the formal procedures before filing suit in any other forum. The general exhaustion requirement of the former section 255.1(c)(5) was clarified in order to prevent confusing and duplicative processing of one complaint. The reference to the *Postal Operations Manual* was removed because the complaint procedures relating to the Vice President and Consumer Advocate are now contained here.

Section 255.7 Special Arrangements for Postal Services

This section sets forth the types of arrangements that can be made for those individuals eligible under postal regulations for obtaining postal services under special conditions. Members of the public who are not disabled within the meaning of the Rehabilitation Act may qualify for special arrangements pursuant to the postal regulations listed here. In accordance with section 504 or this part, individuals who are disabled may be provided with special arrangements as a reasonable accommodation.

The section, previously found at section 255.2, is essentially unchanged with the exception of editing for clarity and the addition of language on reasonable accommodation under section 504. Specific section numbers contained in the cited manuals were removed because manual revisions have changed where the topics are now found.

Section 255.8 Access to Postal Facilities

This section is essentially unchanged except for editing for clarity and the addition of legal citations to make the cited authorities easier to identify and locate. It was previously found at section 255.3.

Section 255.9 Other Postal Regulations; Authority of Postal Managers and Employees

This section is the same as the original previously found at section 255.4 except that ''official'' was changed to ''manager'' and the last sentence referring to misdirected informal complaints was deleted. A similar requirement that postal managers or employees promptly refer informal complaints they receive that they lack the authority to resolve to the appropriate manager was added in section 255.6(c)(1)(i) where it logically belongs.

Although 39 U.S.C. 410, exempts the Postal Service from the rulemaking notice and comment requirements of the Administrative Procedures Act, 5 U.S.C. 553, the Postal Service, nevertheless, invites public comment on the following proposed revisions to 39 CFR part 255.

List of Subjects in 39 CFR Part 255

Electronic and information technology, Federal buildings and facilities, Individuals with disabilities.

Accordingly, the Postal Service proposes to revise 39 CFR part 255 to read as follows:

PART 255—ACCESS OF PERSONS WITH DISABILITIES TO POSTAL SERVICE PROGRAMS, ACTIVITIES, FACILITIES, AND ELECTRONIC AND INFORMATION TECHNOLOGY

Sec.
255.1 Purpose.
255.2 Definitions.
255.3 Nondiscrimination under any program or activity conducted by the Postal Service.
255.4 Accessibility to electronic and information technology.

255.5 Employment.
255.6 Complaint procedures.
255.7 Special arrangements for postal services.
255.8 Access to postal facilities.
255.9 Other postal regulations; authority of postal managers and employees.

Authority: 39 U.S.C. 101, 401, 403, 1001, 1003, 3403, 3404; 29 U.S.C. 791, 794, 794d

§ 255.1 Purpose.

(a) This part implements section 504 of the Rehabilitation Act of 1973, as amended. Section 504 prohibits discrimination on the basis of disability in programs or activities conducted by executive agencies or by the Postal Service. This part also implements section 508 of the Rehabilitation Act of 1973, as amended. Section 508 requires that executive agencies and the Postal Service ensure, absent an undue burden, that individuals with disabilities have access to electronic and information technology that is comparable to the access of individuals who are not disabled.

(b) The standards relating to electronic and information technology expressed here are intended to be consistent with the standards announced by the Architectural and Transportation Barriers Compliance Board. Those standards are codified at 36 CFR part 1194.

§ 255.2 Definitions.

(a) *Agency* as used in this part means the Postal Service.

(b) *Area/functional vice president* also includes his or her designee.

(c) *Electronic and information technology (EIT)* includes ''information technology'' and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

(d) *Formal complaint* means a written statement that contains the complainant's name, address, and telephone number; sets forth the nature of the complainant's disability; and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature of the alleged violation of section 504 or of section 508. It shall be signed by the complainant or by someone authorized to do so on the complainant's behalf.

(e) *Individual with a disability*. For purposes of this part, ''individual with a disability'' means any person who

(1) Has a physical or mental impairment that substantially limits one or more of such person's major life activities;

(2) Has a record of such an impairment; or

(3) Is regarded as having such an impairment.

(f) *Information technology* means any equipment, or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

(g) *Postal manager*. As used in this part, ''postal manager'' means the manager or official responsible for a service, facility, program, or activity.

(h) *Qualified individual with a disability*. For purposes of this part, ''qualified individual with a disability'' means

(1) With respect to any Postal Service program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with a disability who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature; or

(2) With respect to any other program or activity, an individual with a disability who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(i) *Section 501* means section 501 of the Rehabilitation Act of 1973, as amended. Section 501 is codified at 29 U.S.C. 791.

(j) *Section 504* means section 504 of the Rehabilitation Act of 1973, as amended. Section 504 is codified at 29 U.S.C. 794.

(k) *Section 508* means section 508 of the Rehabilitation Act of 1973, as amended. Section 508 is codified at 29 U.S.C. 794d.

(l) *Undue burden* means significant difficulty or expense.

(m) *Vice President and Consumer Advocate* also includes his or her designee.

§ 255.3 Nondiscrimination under any program or activity conducted by the Postal Service.

In accordance with section 504 of the Rehabilitation Act, no qualified individual with a disability shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity conducted by the Postal Service.

§ 255.4 Accessibility to electronic and information technology.

(a) In accordance with section 508 of the Rehabilitation Act, the Postal Service shall ensure, absent an undue burden, that the electronic and information technology the agency procures allows:

(1) Individuals with disabilities who are Postal Service employees or applicants to have access to and use of information and data that is comparable to the access to and use of information and data by Postal Service employees or applicants who are not individuals with disabilities; and

(2) Individuals with disabilities who are members of the public seeking information or services from the Postal Service to have access to and use of information and data that is comparable to the access to and use of information and data by members of the public who are not individuals with disabilities.

(b) When procurement of electronic and information technology that meets the standards published by the Architectural and Transportation Barriers Compliance Board would pose an undue burden, the Postal Service shall provide individuals with disabilities covered by paragraph (a) of this section with the information and data by an alternative means of access that allows the individuals to use the information and data.

§ 255.5 Employment.

No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment with the Postal Service. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973, as established by the Equal Employment Opportunity Commission in 29 CFR part 1614 shall apply to employment within the Postal Service.

§ 255.6 Complaint procedures.

(a) *Applicability*. Except as provided in paragraph (b)(1) of this section, this section applies to all section 504 allegations of discrimination based upon disability in the programs or activities conducted by the Postal Service. Except as provided in paragraph (b)(2) of this section, this section applies to all allegations of section 508 violations.

(b) *Employment complaints*. (1) The Postal Service shall process complaints

of employees and applicants alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791. In accordance with 29 CFR part 1614, the Postal Service has established procedures for processing complaints of alleged employment discrimination, based upon disability, in the agency's Handbook EL–603, *Equal Employment Opportunity Complaint Processing.*

(2) The agency shall process complaints of employees and applicants alleging violations of section 508 and involving employment in accordance with the section 508 procedures which have been added to Handbook EL–603. Section 508 complaints shall be processed to provide the remedies required by section 508 of the Rehabilitation Act.

(c) *Complaints by members of the public.* Any individual with a disability who believes that he or she has been subjected to discrimination prohibited by this part or by the alleged failure of the agency to provide access to electronic and information technology may file a complaint by following the procedures described herein. A complainant shall first exhaust informal administrative procedures before filing a formal complaint.

(1) *Informal complaints relating to Postal Service programs or activities and to EIT.* (i) A complainant initiates the informal process by informing the responsible postal manager of the alleged discrimination or inaccessibility of Postal Service programs, activities, or EIT. Postal managers or employees who receive informal complaints that they lack the authority to resolve must promptly refer any such informal complaint to the appropriate postal manager, and at the same time must notify the complainant of the name, address, and telephone number of the person handling the complaint.

(ii) *Resolution of the informal complaint and time limits.* Within 15 days of receipt of the informal complaint, the responsible postal manager must send the complainant a written acknowledgement of the informal complaint. If the matter cannot be resolved within 30 days of its receipt, the complainant must be sent a written interim report which explains the status of the informal complaint and the proposed resolution of the matter. On or before the 60th day from receipt of the informal complaint, the agency shall issue a written decision detailing the final disposition of the informal complaint and the reasons for that disposition.

(iii) *Automatic review.* The responsible postal manager's proposed disposition of the informal complaint shall be submitted to the appropriate district/program manager for review. The district/program manager shall forward the proposed disposition to the area/functional vice president for review and issuance of the written decision. This automatic review process shall be completed such that the written decision of the area/functional vice president shall be issued no later than the 60th day.

(2) *Formal complaints.* If an informal complaint filed under paragraph (c)(1) of this section is not resolved within 60 days of its receipt, the complainant may seek relief in any other appropriate forum, including the right to file a formal complaint with the Vice President and Consumer Advocate in accordance with the following procedures. If the complainant files a formal complaint with the Vice President and Consumer Advocate, the complainant shall exhaust the formal complaint procedures before filing suit in any other forum.

(i) *Where to file.* Formal complaints relating to programs or activities conducted by the Postal Service or to access of Postal Service EIT may be filed with the Vice President and Consumer Advocate, United States Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260.

(ii) *When to file.* A formal complaint shall be filed within 30 days of the date the complainant receives the decision of the area/functional vice president to deny relief. For purposes of determining when a formal complaint is timely filed under this paragraph (c)(2)(ii), a formal complaint mailed to the agency shall be deemed filed on the date it is postmarked. Any other formal complaint shall be deemed filed on the date it is received by the Vice President and Consumer Advocate.

(iii) *Acceptance of the formal complaint.* The Vice President and Consumer Advocate shall accept a timely filed formal complaint that meets the requirements of § 255.2(d), is filed after fulfilling the informal exhaustion procedures of § 255.6(c)(1), and over which the agency has jurisdiction. The Vice President and Consumer Advocate shall notify the complainant of receipt and acceptance of the formal complaint within 15 days of the date the Vice President and Consumer Advocate received the formal complaint.

(iv) *Resolution of the formal complaint.* Within 180 days of receipt and acceptance of a formal complaint over which the agency has jurisdiction, the Vice President and Consumer Advocate shall notify the complainant of the results of the investigation of the formal complaint. The notice shall be a written decision stating whether or not relief is being granted and the reasons for granting or denying relief. The notice shall state that it is the final decision of the Postal Service on the formal complaint.

§ 255.7 Special arrangements for postal services.

Members of the public who are unable to use or who have difficulty using certain postal services may be eligible under postal regulations for special arrangements. Some of the special arrangements that the Postal Service has authorized are listed below. No one is required to use any special arrangement offered by the Postal Service, but an individual's refusal to make use of a particular special arrangement does not require the Postal Service to offer other special arrangements to that individual.

(a) The *Postal Operations Manual* offers information on special arrangements for the following postal services.

(1) Carrier delivery services and programs.

(2) Postal retail services and programs.

(3) Retail service from rural carriers.

(4) Self-service postal centers. Self-service postal centers contain deposit boxes for parcels and letter mail, and vending equipment for the sale of stamps and stamp items. Many centers are accessible to individuals in wheelchairs. Information regarding the location of the nearest center may be obtained from a local Post Office.

(b) The *Domestic Mail Manual,* the *Administrative Support Manual,* and the *International Mail Manual* contain information regarding postage-free mailing for mailings that qualify.

(c) *Inquiries and requests.* Members of the public wishing further information about special arrangements for particular postal services may contact their local postal manager.

(d) *Response to a request or complaint regarding a special arrangement for postal services.* A local postal manager receiving a request or complaint about a special arrangement for postal services must provide any arrangement as required by postal regulations. If no special arrangements are required by postal regulations, the local postal manager, in consultation with the district manager or area manager, as needed, may provide a special arrangement or take any action that will accommodate an individual with a

disability as required by section 504 or by this part.

§ 255.8 Access to postal facilities.

(a) *Legal requirements and policy* (1) *ABA Standards.* Where the design standards of the Architectural Barriers Act (ABA) of 1968, 42 U.S.C. 4151 et seq., do not apply, the Postal Service may perform a discretionary retrofit to a facility in accordance with this part to accommodate individuals with disabilities.

(2) *Discretionary modifications.* The Postal Service may modify facilities not legally required to conform to ABA standards when it determines that doing so would be consistent with efficient postal operations. In determining whether modifications not legally required should be made, due regard is to be given to:

(i) The cost of the discretionary modification;

(ii) The number of individuals to be benefited by the modification;

(iii) The inconvenience, if any, to the general public;

(iv) The anticipated useful life of the modification to the Postal Service;

(v) Any requirement to restore a leased premises to its original condition at the expiration of the lease, and the cost of such restoration;

(vi) The historic or architectural significance of the property in accordance with the National Historic Preservation Act of 1966, 16 U.S.C. § 470 et seq.;

(vii) The availability of other options to foster service accessibility; and

(viii) Any other factor that is relevant and appropriate to the decision.

(b) *Inquiries and requests.* (1) Inquiries concerning access to postal facilities, and requests for discretionary alterations of postal facilities not covered by the design standards of the ABA, may be made to the local postal manager of the facility involved.

(2) The local postal manager's response to a request or complaint regarding an alteration to a facility will be made after consultation with the district manager or the area manager. If the determination is made that modification to meet ABA design standards is not required, a discretionary alteration may be made on a case-by-case basis in accordance with the criteria listed in paragraph (a)(2) of this section. If a discretionary alteration is not made, the local postal manager should determine if a special arrangement for postal services under § 255.7 can be provided.

§ 255.9 Other postal regulations; authority of postal managers and employees.

This part supplements all other postal regulations. Nothing in this part is intended either to repeal, modify, or amend any other postal regulation, to authorize any postal manager or employee to violate or exceed any regulatory limit, or to confer any budgetary authority on any postal official or employee outside normal budgetary procedures.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–4212 Filed 2–22–02; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA247–0308; FRL–7149–3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from food product manufacturing and processing operations. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received by March 27, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

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

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4111.

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

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I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the SCAQMD and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SCAQMD	1131	Food Product Manufacturing and Processing Operations.	09/15/00	05/08/01

On July 20, 2001, Rule 1131 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

There is no previous version of Rule 1131 in the SIP. Since Rule 1131 is a new rule, SCAQMD has not submitted previous versions of Rule 1131 to EPA.

C. What Is the Purpose of the Submitted Rule?

Rule 1131 is designed to reduce emissions of VOCs from solvents used in food product manufacturing and processing operations. Emissions are reduced by a specific VOC content limit, use of emission control devices, or a combination of these methods and other innovations. Rule 1131 includes the following general provisions:

—Applicability of the rule;
—Definitions of terms under the rule;
—Requirements of the rule;
—Recordkeeping requirements of the rule;
—Test methods for determining compliance;
—Rule 442 applicability; and,
—Exemptions from the rule.

The TSD has more detailed information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 1131 must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24,1987 **Federal Register** document,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

B. Does the Rule Meet the Evaluation Criteria?

Rule 1131 improves the SIP by establishing more stringent emission limits and by clarifying monitoring, recording, and recordkeeping provisions. This rule is largely consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. What Are the Rule's Deficiencies?

A portion of Rule 1131 conflicts with section 110 and part D of the Act and prevent full approval of these SIP revisions. The deficiency exists within subsection (c)(1)(C). This subsection allows ''director's discretion'' in the review and approval of compliance plans. The rule does not specify the emission estimation protocols needed to avoid a broad and ungoverned application of ''director's discretion'' when reviewing the compliance plans. This deficiency is inconsistent with the CAA section 110(a) requirement that the SIP be federally enforceable. A facility may take any number of actions to reduce VOC emissions to a level equivalent with the requirements of the rule.

D. EPA Recommendations To Further Improve the Rule

In this case, the EPA does not suggest additional rule revisions that might improve the rule.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of SCAQMD Rule 1131 to improve the SIP. If finalized, this action would incorporate this submitted rule into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rule under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule's deficiencies within 18 months. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rule has been adopted by the SCAQMD, and EPA's final limited disapproval would not prevent the local agency from enforcing it.

We will accept comments from the public on this proposed limited approval and limited disapproval for the next 30 days.

III. Background Information

Why Was This Rule Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP–Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13211

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

C. Executive Order 13045

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

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

D. Executive Order 13132

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

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

E. Executive Order 13175

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

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. Regulatory Flexibility Act

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

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

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

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

G. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and

is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

H. National Technology Transfer and Advancement Act

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: February 8, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 02–4406 Filed 2–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Region II Docket No. PR7–236, FRL–7149–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Section 111(d)/129 Plan submitted by the Commonwealth of Puerto Rico for the purpose of implementing and enforcing the Emission Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units. The plan was submitted to fulfill requirements of the Clean Air Act. The Puerto Rico (PR) plan establishes emission limits for existing HMIWI and provides for the implementation and enforcement of those limits.

DATES: Comments must be received on or before March 27, 2002.

ADDRESSES: Comments may be mailed to Raymond W. Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region II, 290 Broadway, 25th Floor, New York, NY 10007–1866. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Division of Environmental Planning and Protection, Air Programs Branch, Environmental Protection Agency, Region II, 290 Broadway, 25th Floor, New York, NY 10007–1866; Environmental Protection Agency, Region II, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, San Juan, Puerto Rico 00907–4127; and the Puerto Rico Environmental Quality Board, National Plaza Building, 431 Ponce De Leon Avenue, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Demian P. Ellis at (212) 637–3713, or by e-mail at ellis.demian@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. What Action Is Being Taken by the Environmental Protection Agency (EPA) Today?

EPA is proposing to fully approve the Puerto Rico plan, as submitted on February 20, 2001, for the control of air emissions from HMIWIs. When EPA developed the New Source Performance Standard (NSPS) for HMIWI, it also developed Emission Guidelines (EG) to control air emissions from existing HMIWI. (See 62 FR 48379, September 15, 1997, 40 CFR Part 60, Subpart Ce [Emission Guidelines and Compliance Times for HMIWIs] and Subpart Ec [Standards of Performance for HMIWIs for Which Construction is Commenced After June 20, 1996]). The Puerto Rico Environmental Quality Board (EQB) developed a plan, as required by Sections 111(d) and 129 of the Clean Air Act (CAA), 42 U.S.C. 7411(d) and 7429, to adopt the EG into its body of regulations, and EPA is proposing action today to fully approve it.

II. The HMIWI State Plan Requirement

What Is a HMIWI State Plan?

A HMIWI state plan is a plan to control air pollutant emissions from existing incinerators which burn hospital waste or medical/infectious waste.

Why Are We Requiring Puerto Rico To Submit a HMIWI Plan?

States are required under Sections 111(d) and 129 of the CAA to submit plans to control emissions from existing HMIWI in the State. The state plan requirement was triggered when EPA published the EG for HMIWI under 40 CFR Part 60, Subpart Ce (See 62 FR 48379, September 15, 1997). For the purposes of the Clean Air Act, Puerto Rico is treated as a state.

Under Section 129 of the CAA, EPA was required to promulgate EGs for several types of existing solid waste incinerators. These EGs establish emission standards that states must adopt to comply with the CAA. The HMIWI EG also establishes requirements for monitoring, operator training, permits, and a waste management plan that must be included in HMIWI plans.

The intent of the HMIWI plan requirement is to reduce several types of air pollutants associated with waste incineration.

Why Do We Need To Regulate Air Emissions From HMIWI?

The HMIWI plan establishes control requirements which reduce the following emissions from HMIWI: particulate matter; sulfur dioxide; hydrogen chloride; nitrogen oxides; carbon monoxide; lead; cadmium; mercury; and dioxin/furans. These pollutants can cause adverse effects to public health and the environment.

Dioxin, lead, and mercury bioaccumulate through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Exposure to dioxin and furans can cause skin disorders. Dioxin may also pose risks to the reproductive and immune systems and is a likely human carcinogen. Acid gases affect the respiratory tract, as well as contribute to the acid rain that damages lakes and harms forests and buildings. Exposure to particulate matter has been linked with adverse health effects, including aggravation of existing respiratory and cardiovascular disease and increased risk of premature death. Nitrogen oxide emissions contribute to the formation of ground level ozone, which is associated with a number of adverse health and environmental effects.

What Criteria Must a HMIWI Plan Meet To Be Approved?

The criteria for approving a HMIWI plan include requirements from Sections 111(d) and 129 of the CAA and 40 CFR part 60, Subpart B. Under the requirements of Sections 111(d) and 129 of the CAA, a HMIWI plan must be at least as protective as the EG regarding applicability, emission limits, compliance schedules, performance testing, monitoring and inspections, operator training and certification, waste management plans, and record keeping and reporting. Under Section 129(e), HMIWI plans must ensure that affected HMIWI facilities submit Title V permit applications to the state by September 15, 2000. Under the requirements of 40 CFR part 60, Subpart B, the criteria for an approvable Section 111(d) plan must include a demonstration of adequate legal authority, enforceable mechanisms, public participation documentation, source and emission inventories, and a state progress report commitment.

III. What Does the Puerto Rico HMIWI Plan Contain?

EQB amended its Rules 102 and 405(b) of the Regulations for the Control of Atmospheric Pollution (RCAP) to incorporate the requirements for implementing the HMIWI EG covered under Sections 111(d) and 129 of the CAA, and codified in the 40 CFR part 60, Subpart Ce. Revisions to the Commonwealth rules became effective on April 20, 2001.

The Puerto Rico HMIWI plan contains:

1. A demonstration by the Attorney General of the Commonwealth's legal authority to implement the Section 111(d)/129 HMIWI plan;
2. Revisions to Commonwealth rules 102 (definitions) and 405(b) (Incineration), as the enforceable mechanism;
3. An inventory of six (6) known designated facilities, along with estimates of their air emissions;
4. Emission limits that are as protective as the EG;
5. A final compliance date no later than September 15, 2002;
6. Testing, monitoring, inspection, reporting and record keeping requirements for the designated facilities;
7. Documentation from the public hearing on the HMIWI plan; and,
8. Provisions to make progress reports to EPA.

The reader is referred to the Technical Support Document for further details on Puerto Rico's plan.

IV. Which HMIWIs Are Subject to These Regulations?

The EG for existing HMIWI affect any HMIWI built on or before June 20, 1996. If a facility meets this criterion, it is subject to these regulations.

V. What Steps Do HMIWIs Need To Take?

A facility must meet the requirements listed in Puerto Rico Rule 405(b) of the Regulations for the Control of Atmospheric Pollution (RCAP), summarized as follows:

1. Determine the size of the facility's incinerator by establishing its maximum design capacity.
2. Each size category of HMIWI has certain emission limits established which the facility's incinerator must meet. [Rule 405(b)] Please refer to EQB's Rule 405(b), Table 1 to determine the specific emission limits which apply to the facility. The emission limits apply at all times, except during startup, shutdown, or malfunctions, provided that no waste has been charged during these events.
3. There are provisions to address small rural incinerators (if your unit is applicable). Please see Rule 405(b)(5) for further details.
4. The facility must meet a 10 percent opacity limit on its discharge, averaged over a six-minute block. Please see Rule 405(b)(2) for further details.
5. The facility must have a fully trained and qualified HMIWI operator available to supervise the operation of the incinerator. This operator must be trained and qualified through a state-approved program, or a training program that meets the requirements listed in Rule 405(b)(3).
6. The facility's operator must be certified, as discussed in 5 above, no later than one year after EPA approval of the HMIWI plan or after publication date of EPA's federal plan, whichever is sooner. Please see Rule 405(b)(9)(G) for further details.
7. The facility must develop and submit to EQB a waste management plan. This plan must be developed under guidance provided by the American Hospital Association publication, ''An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities,'' 1993, and must be submitted to EQB no later than 60 days following the initial performance test for the affected unit. Please see Rule 405(b)(4) for further details.
8. The facility must conduct an initial performance test to determine the incinerator's compliance with these emission limits. This performance test must be completed no later than 180 days after final compliance is achieved, and as required under 40 CFR 60.37e and Rule 405(b)(9)(E).
9. The facility must install, calibrate, maintain, and operate devices to monitor the parameters listed under Rule 405(b)(7).
10. The facility must document and maintain information concerning: Calendar date of each record; records of: (a) Pollutant concentrations or opacity measurements (as determined by the continuous emissions monitoring system); (b) HMIWI charge dates, times, and weights and hourly charge rates; and other operational data. This information must be maintained for a period of five years. Please see Rule 405(b)(8) for further details.
11. The facility must submit an annual report to EQB containing records of annual equipment inspections, any required maintenance, and unscheduled repairs. This annual report must be signed by the facility's manager.

VI. Is the Puerto Rico HMIWI Plan Approvable?

EPA compared the Puerto Rico Rule 405(b) of the Regulations for the Control of Atmospheric Pollution (RCAP) with our HMIWI EG. EPA finds the Puerto Rico rules to be at least as protective as the EG. The Puerto Rico HMIWI plan was reviewed for approval compared to the following criteria: 40 CFR 60.23 through 60.26, Subpart B—Adoption and Submittal of State plans for Designated Facilities; 40 CFR 60.30e through 60.39e, Subpart Ce—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators; and, 40 CFR 62.14400 through 62.14495, Subpart HHH—Federal Plan Requirements for Hospital/

Medical/Infectious Waste Incinerators Constructed on or before June 20, 1996. It should be noted that Puerto Rico is currently subject to the federal plan requirements for Hospital/Medical/Infectious Waste Incinerators, 40 CFR 62.14400 through 62.14495.

The EPA finds that the Puerto Rico HMIWI plan satisfies the requirements for an approvable Section 111(d)/129 plan under Subparts B and Ce of 40 CFR Part 60 and Subpart HHH of 40 CFR Part 62 and is therefore, proposing to approve the Puerto Rico HMIWI plan.

VII. Administrative Requirements

Executive Order 12866

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

Paperwork Reduction Act

This action will not impose any collection information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0363. For additional information concerning these requirements, *See* 40 CFR 60.38e. 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.

Executive Order 13045

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

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

Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6(b) of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. Under section 6(c) of Executive Order 13132, EPA may not issue a regulation that has federalism implications and that preempts state law, unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

EPA has concluded that this rule may have federalism implications. The only reason why this rule may have federalism implications is if in the future a HMIWI source is found in the Commonwealth of Puerto Rico in which case the source will become subject to the federal plan until a Puerto Rico HMIWI plan is approved by EPA. However, it will not impose substantial direct compliance costs on state or local governments, nor will it preempt state law. Thus, the requirements of sections 6(b) and 6(c) of the Executive Order do no apply to this rule.

Executive Order 13175

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

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

Regulatory Flexibility

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

This rule will not have a significant impact on a substantial number of small entities because such businesses have already been subject to the federal plan, which mirrors this rule. Therefore, because the Federal approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates

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

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

National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act

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

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, waste treatment and disposal.

Dated: February 11, 2002.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 02–4405 Filed 2–22–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-month Finding for a Petition To List the Big Cypress Fox Squirrel

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the Fish and Wildlife Service (Service), announce a 12-month finding for a petition to list the Big Cypress fox squirrel (*Sciurus niger avicennia*) under the Endangered Species Act of 1973, as amended (Act). After a review of all available scientific and commercial information, we find that listing of the Big Cypress fox squirrel is not warranted at this time. We will continue to seek new information on the biology, ecology, distribution, and habitat of the Big Cypress fox squirrel, as well as potential threats to its continued existence. If additional data become available in the future, we may reassess the need for listing.

DATES: The finding announced in this document was made on February 15, 2002.

ADDRESSES: The complete file for this finding, including comments and information submitted, is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, South Florida Ecological Services Office, 1339 20th Street, Vero Beach, FL 32960.

FOR FURTHER INFORMATION CONTACT: David Martin (see **ADDRESSES** section; telephone 561/562–3909 extension 230; facsimile 561/562–4288).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act requires that, for any petition to revise the List of Endangered and Threatened Wildlife and Plants that presents substantial scientific and commercial information, we must make a finding within 12 months of the date of receipt of the petition as to whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Upon making a 12-month finding, we must promptly publish notice of such finding in the **Federal Register**.

The Big Cypress fox squirrel (*Sciurus niger avicennia*) is a subspecies of the fox squirrel (*Sciurus niger*), which occurs over most of the eastern and central United States, extending into south-central Canada (Koprowski 1994). The Big Cypress fox squirrel is restricted to southwest Florida. Its historic range was southwest Florida from south of the Caloosahatchee River, west of the Everglades, to as far south as Cape Sable (Williams and Humphrey 1979, Moore 1956). Despite human development and changes in land use in the southwestern Florida peninsula, the current range of the Big Cypress fox squirrel, based on its description in the best available information, is essentially unchanged (Humphrey and Jodice 1992, Williams and Humphrey 1979, and Moore 1956). Big Cypress fox squirrels have been reported present in Hendry and Lee Counties south of the Caloosahatchee River, Collier County, the mainland of Monroe County, and extreme western Miami-Dade County (a strip of land on the western side of the true Everglades, largely in Big Cypress National Preserve) (Humphrey and Jodice 1992, Jodice 1990, Wooding 1990, and Williams and Humphrey 1979). The Big Cypress fox squirrel is, however, absent from a few areas of its historic range like the Cape Sable coast of Everglades National Park in the vicinity of Flamingo, Monroe County. (Wooding 1990, Jodice 1990, Humphrey and Jodice 1992).

Fox squirrel research specific to Florida was only begun in the 1950s (Wooding 1990). Therefore, very little information regarding Big Cypress fox squirrels is available from prior to that time. Studies of the Big Cypress fox squirrel in its natural habitat are virtually nonexistent. Available reports specific to the Big Cypress fox squirrel provide limited details regarding the biology of, population status of, and threats faced by this fox squirrel range-wide. In addition, no recent studies or evaluations of the Big Cypress fox squirrel have been conducted. The only recent analysis was conducted on potential Big Cypress fox squirrel habitat (WilsonMiller Inc. 2002). The previous range-wide report by Cox *et al.* (1994) on habitat used 1985–1989 Landsat imagery.

The State has protected the Big Cypress fox squirrel since 1973, when the Florida Fish and Wildlife Commission (Commission) listed it as endangered. The State reclassified the Big Cypress fox squirrel to threatened in 1979; the species retained protection as a nongame species. As a threatened species, Big Cypress fox squirrels and their nests cannot be taken or possessed without authorization from the Commission.

Our involvement with the Big Cypress fox squirrel began when we identified the Big Cypress fox squirrel as a category 2 candidate species in Notices of Review published in the **Federal Register** on December 30, 1982 (47 FR 58454), September 18, 1985 (50 FR 37958), January 6, 1989 (54 FR 554), November 21, 1991 (56 FR 58804), and November 15, 1994 (59 FR 58982). Prior to 1996, a category 2 species was one that we were considering for possible addition to the Federal Lists of Endangered and Threatened Wildlife and Plants, but for which conclusive data on biological vulnerability and threats were not available to support a proposed rule. We identified the Big Cypress fox squirrel's status as ''D'' or ''Declining'' in the 1991 and 1994 Notices of Review. This designation indicates decreasing numbers or increasing threats. In addition, we identified a priority for this subspecies and most of our other category 2 candidates during the completion of the 1991 and 1994 Notices of Review. In 1991, the Big Cypress fox squirrel was identified as a priority 9. Based on the listing priority system detailed in the **Federal Register** in 1983 (48 FR 43103), this priority indicated that the Big Cypress fox squirrel faced a moderate to low magnitude of imminent threats. In

1994, the Big Cypress fox squirrel was identified as a low-priority category 2 candidate. We discontinued designation of category 2 species in the February 28, 1996, Notice of Review (61 FR 7596). This notice redefined candidate to include only species for which we have information needed to propose them for listing.

On January 5, 1998, we received a petition from the Biodiversity Legal Foundation, Sidney Maddock, Florida Biodiversity Project, Brian Scherf, and Rosalyn Scherf, to list the Big Cypress fox squirrel as a threatened species and designate critical habitat concurrently with listing. The petitioners stated that the Big Cypress fox squirrel is threatened by several factors, including habitat loss, fragmentation, and modification; exclusion of fire; predation; road mortality; and poaching. After considering the petition and reviewing all available scientific and commercial information, we made a 90-day finding that the petition to list the Big Cypress fox squirrel presented substantial information indicating that the requested action may be warranted. We published a notice announcing our finding in the **Federal Register** on September 9, 1998 (63 FR 48165), and initiated a status review on the subspecies.

On December 11, 2000, the petitioners filed a complaint in the U.S. District Court for the Southern District of Florida, Key West Division, against the U.S. Fish and Wildlife Service (Service), the Director of the Service, and the Secretary of the Department of the Interior, alleging the Service failed to make a 12-month finding on the petition to list the Big Cypress fox squirrel. On September 25, 2001, the U.S. Department of Justice entered into a settlement agreement with the petitioners in which the Service agreed to complete a 12-month finding for the Big Cypress fox squirrel and submit this finding to the **Federal Register** by February 18, 2002.

Summary of Factors Affecting the Species

Under Section 4(a)(1) of the Act, a species may be determined to be threatened or endangered for any one of the following reasons: (1) Present or threatened destruction, modification, or curtailment of habitat or range; (2) overutilization for commercial, sporting, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Listing determinations are made solely on the best scientific and commercial data available and after taking into account any efforts being made by any State or foreign nation to protect the species. We have examined each of the five listing factors under the Act for their application to the Big Cypress fox squirrel as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Big Cypress fox squirrel's current range, as described in the best available information, remains essentially unchanged (Humphrey and Jodice 1992, Williams and Humphrey 1979, Moore 1956) from its historic range. This subspecies of fox squirrel has been found to use most types of forests within its range, including open pinelands (wet or dry), mixed open pine-cypress, mixed open pine hardwoods, open hardwood, seasonally used cypress strand and edges of cypress dome strands, interiors of cypress domes and strands, prairie with interspersed pines or adjacent pineland, live oak savannas, and mangrove, cypress, and hardwood swamps. Although many questions remain about habitat use and requirements for this squirrel, the Big Cypress fox squirrel seems to prefer an open understory in the habitat types that it frequents (Ditigen 1999, Wooding 1990, and Brown 1978). We also believe the Big Cypress fox squirrel is opportunistic in its use of available habitat. For example, in addition to the habitat types listed above, Big Cypress fox squirrels also persist in urban settings where native vegetation is present (Ditigen 1999, Cox et al. 1994, and Williams and Humphrey 1979). These settings include golf courses, city parks, and residential areas that contain or have adjacent pine flatwoods, upland fringes of cypress domes, and tropical hardwood forests.

Habitat for the Big Cypress fox squirrel exists on both private land and conservation lands within this subspecies' range. We provide a brief county-by-county analysis:

Hendry County

The land ownership is mostly private and land use is mainly agriculture and ranching. Most Big Cypress fox squirrel habitat is in the northwestern part of the county on several ranches. These areas are all medium-sized (1,000–4,000 ha) with existing Big Cypress fox squirrel populations (Wooding 1997). Fox squirrels use both pine and cypress habitats, as well as improved cattle pastures that have live oaks, on ranchlands in Hendry County (Williams and Humphrey 1979). Okaloacoochee Slough State Forest is also in this county. The rate of population growth for Hendry County as estimated and projected gradually decreases between 1990 and 2030. (For all human population figures, 1990 and 2000 figures from U.S. Census, available at http://swfloridabusiness.com; ''Projections of Florida Population by County, 2000–2030,'' produced by the Bureau of Economic and Business Research, University of Florida. Data presented at website of Southwest Florida Regional Planning Council (see Literature Cited)).

Lee County

In eastern Lee County, land ownership is similar to Hendry County. A notable Big Cypress fox squirrel population in a medium-sized area of habitat was found on a ranch in this part of the county (Wooding 1997). Wooding also reported Big Cypress fox squirrels from golf courses and ranchettes adjacent to this area. Western Lee County is mostly urban or residential in and near Ft. Myers and Naples, including the corridor of I–75. However, areas of habitat that Big Cypress fox squirrels use exist in this area, like Estero Bay State Buffer Preserve and Koreshan State Historic Site. Lee County, between 2000 and 2010, will gain the greatest number of people (98,412) of all the counties within the range of the Big Cypress fox squirrel. We expect this population growth will be focused around the I–75 corridor.

Collier County

The northwestern edge of Collier County is similar to western Lee County, with mostly urban or residential areas in and near the Naples area and the end of the I–75 corridor. We expect population growth in the county to be focused in this area. Wooding (1997) found Big Cypress fox squirrels to be common on some golf courses around Naples. In addition, Rookery Bay National Estuarine Research Reserve, which has reported fox squirrels (Florida Department of Environmental Protection 2001a), is in this area. The remainder of Collier County to the south and east is mostly in public ownership as conservation lands. Big Cypress fox squirrels have been reported from all conservation lands in this county and one ranch.

Monroe and Miami-Dade Counties

Monroe County and extreme western Miami-Dade County are largely composed of Everglades National Park, where the squirrel is a resident and can be found in mangroves, pinelands, and cypress swamp (http://www.nps.gov/ever/eco/mammals.htm). We believe that residential and urban land uses in

this part of the Big Cypress fox squirrel's range are insignificant.

Summary

Within the geographic range of the Big Cypress fox squirrel, 58 percent of the potential habitat for this subspecies exists in conservation lands (551,855 ac) and a little under 400,000 ac exists on nonconservation lands, for a total of 949,000 ac (WilsonMiller Inc. 2002). Big Cypress fox squirrels occur in nearly all conservation lands within their range.

Recently, WilsonMiller Inc. (2002) evaluated the amount of potential habitat available to the Big Cypress fox squirrel in southwest Florida, especially in Collier, Hendry, Lee, and Monroe counties. It noted that the basis of Cox et al.'s (1994) report, especially their choice to use pineland and dry prairie as the principal components of Big Cypress fox squirrel habitat and their subsequent analysis based on these cover types, was inconsistent with Big Cypress fox squirrel habitat types described in current literature (Humphrey and Jodice 1992), did not fully account for the occurrence data reported by Williams and Humphrey 1979, and underestimated the total amount of Big Cypress fox squirrel potential habitat. In its analysis, WilsonMiller Inc. used 1995 data to map, with a minimum map unit size of 5 acres, habitat types utilized by the fox squirrel and consistent with Humphrey and Jodice (1992). The mapped results indicate that more than twice as much Big Cypress fox squirrel potential habitat (949,000 ac) exists than what was estimated by Cox et al. (about 414,000 ac). The WilsonMiller Inc. map also indicates large, interconnected, forested patches of Big Cypress fox squirrel habitat that may allow movement and genetic interchange. According to WilsonMiller Inc., its analysis and map correlates well with available occurrence data for the Big Cypress fox squirrel and includes conservation lands with known Big Cypress fox squirrel residents and habitat that was not accounted for by Cox et al. (1994).

In general, we believe—based on WilsonMiller Inc's (2002) study—that the Big Cypress fox squirrel has more potential habitat than outlined by Cox et al. (1994) (over 900,000 acres) and has additional larger patches of habitat than those classified by Wooding (1997). We also believe similar to Wooding (1997) that smaller, isolated, fragmented pockets of squirrels are surviving in strips and patches of habitat, such as golf courses and fringes of residential areas. We believe the Big Cypress fox squirrel has been difficult to assess in its range. Among other reasons, native fox squirrel habitat is often too dense to make behavioral observations (or sightings) from farther away than a few meters. (Maehr 1993)

We believe the majority of population growth in the Big Cypress fox squirrel's range will occur in or near the I–75 corridor, mostly in and around the south Ft. Myers and Naples areas. Growth and development will generally occur west of the majority of Big Cypress fox squirrel potential habitat (WilsonMiller Inc. 2002). Habitat important to the Big Cypress fox squirrel in this area is under the greatest pressure to be developed for residential or commercial purposes. The highest density of roads in the Big Cypress fox squirrel's range occurs in this area. Roads, depending on the type, level of traffic, and location, may fragment Big Cypress fox squirrel habitat or hinder squirrel movement. However, no research has been conducted to determine to what degree roads may fragment squirrel habitat or hinder squirrel movement. We cannot conclude based on current information if road fragmentation constitutes a threat to this subspecies' habitat. Based on recorded sightings, we do believe squirrels cross some roads and are found near them. An area around the I–75 corridor that has been heavily studied includes golf courses, which have been found to provide a better green space than most development projects, but Big Cypress fox squirrels will persist on them only as long as suitable native habitat is contiguous to the golf courses (Ditigen 1999).

A large portion of the Big Cypress fox squirrel's range consists of lands purchased for conservation purposes. These lands are mostly in Collier, Monroe, and extreme western Miami-Dade Counties and are protected from development and have a low density of roads bisecting natural habitat. Our available information does not conclusively suggest that current management practices on these conservation lands constitute a threat to the Big Cypress fox squirrel. For example, Humphrey and Jodice (1992) explain that ground fires apparently are valuable to the habitats of Big Cypress fox squirrels because they slow plant succession, but this specific relationship has not been studied. We are encouraged by the efforts of both State and Federal agencies in fire planning and prescribed burning. This should result in a more open understory for the Big Cypress fox squirrel if burning is not hampered by drought conditions for continuous years.

Hendry County and eastern Lee County, where Wooding (1997) found the largest areas of Big Cypress fox squirrel habitat and where WilsonMiller Inc. (2002) found only 10 percent of the total potential Big Cypress fox squirrel habitat, are under private ownership and are not under high pressure to be developed for residential purposes (though native Big Cypress fox squirrel habitat here may be converted for different land uses, such as citrus production). Big Cypress fox squirrels have been reported to occur on ranches. In fact, much of the habitat described by Wooding (1997) is on ranches in southern Florida, and grazing by cattle may enhance the understory, improving the habitat for squirrels (Williams and Humphrey 1979). Even if we assume that Big Cypress fox squirrels are not able to use lands converted for citrus production or other agricultural purposes, the best available information does not indicate that the rate of conversion of native habitat in Hendry County poses a threat to this subspecies. According to WilsonMiller (2002), Collier, Lee, and Monroe counties, which contain 90 percent of the total Big Cypress fox squirrel habitat, nearly all of which is in conservation lands, have not undergone a significant agricultural expansion. Therefore, we also cannot conclude, based on the best available information, that the rate of land conversion in these counties poses a threat to this subspecies.

Mining for rock and sand also occurs in Collier and Lee Counties. Some of these operations destroy pine flatwoods or mixed pine-cypress areas. In some cases, it may be difficult to separate losses to mining from those due to agriculture, because lands are often cleared under agricultural permits prior to mining. Mines are an allowed use in agriculturally zoned areas in Lee and Collier Counties (K. Dryden and A. Eller, Fish and Wildlife Service, personal communication 2000). Mining is not a compatible land use if it destroys native squirrel habitat.

Our best available information indicates the Big Cypress fox squirrel has lost habitat in some areas to urbanization, agriculture, and mining. Nevertheless, conservation lands do cover 58 percent of this subspecies' historic range, and areas of habitat exist on private ranches and other urban areas. Based on the best available information, potential Big Cypress fox squirrel habitat appears to be more than twice what was previously estimated. In addition, the Big Cypress fox squirrel still occupies most of its historic range in southwest Florida and has shown itself to be adaptable, by residing in

altered habitats such as golf courses and residential areas where native habitat is preserved, and mobile in its native habitat. Furthermore, quantitative or substantial information on the Big Cypress fox squirrel, its status, and its habitat use and requirements is lacking. Therefore, based on uncertainties about how this fox squirrel uses its native habitat and on the actual status of the Big Cypress fox squirrel population, and due to the amount of available potential habitat to this fox squirrel, we cannot conclude that the Big Cypress fox squirrel is threatened or endangered due to the destruction or curtailment of its habitat or range.

2. *Overutilization for commercial, recreational, scientific, or educational purposes.* The Big Cypress fox squirrel has been protected from hunting since 1973, when the State listed it as an endangered species. The State later reclassified the Big Cypress fox squirrel to threatened in 1979, but it retained protection as a nongame species. Elsewhere in Florida, fox squirrel hunting formerly was a popular activity, but interest dropped off (Wooding 1990), which is one factor that led to the closure of fox squirrel hunting statewide as of the 1996–1997 hunting season (Wooding 1997). Despite concerns that ''people were still shooting'' fox squirrels as discussed in the petition, we do not have evidence that poaching of fox squirrels constitutes a threat to this subspecies. Also, no information is available to confirm that Big Cypress fox squirrel populations may have suffered long-term reduction in size due to legal hunting.

3. *Disease or predation.* A skin fungus has been identified as a source of mortality for Big Cypress fox squirrels found in urban areas. During Ditgen's (1999) study of fox squirrels on golf courses in southwest Florida, she noted at least eight individuals with a fungus causing heavy fur loss and a blackened crusting of the skin. Ditgen reported that two Big Cypress fox squirrels died as a result of the skin fungus during her study. One collared individual survived the fungus infestation and regained a thick, healthy coat. No researchers have suggested that this fungus threatens urban Big Cypress fox squirrel populations. A pox outbreak was reported in eight counties in southeast and central Florida outside the range of the Big Cypress fox squirrel during the 1990's. Although no cases have been reported affecting Big Cypress fox squirrels, one infected Sherman's fox squirrel was observed (T. Regen, Florida Fish and Wildlife Conservation Commission, personal communication 1999). Mosquitoes transmit the disease, which only affects squirrels. No known treatment or vaccine is available. At this time, we have no evidence that pox is likely to pose a threat to the Big Cypress fox squirrel. In addition, Big Cypress fox squirrels, like other fox squirrels, are susceptible to parasites, but we have no evidence that parasites pose a threat to the Big Cypress fox squirrel. As the petitioners state, based on a study of fox squirrel parasites, the prevalences and intensities were much lower in Big Cypress fox squirrels.

Predation may limit the sizes of Big Cypress fox squirrel populations. All fox squirrels spend much of their time on the ground, where they are more vulnerable to predation than when in trees (Humphrey and Jodice 1992). Known predators of Big Cypress fox squirrels include bobcats (*Felis rufus*), gray and red foxes (*Vulpes vulpes*), and domestic cats (*Felis sylvestris*) (Ditgen 1999). Small mammals are inherently subject to predation. However, the best available information does not lead us to the conclusion that disease or predation has caused the species to meet the definition of threatened or endangered.

4. *Inadequacy of existing regulatory mechanisms.* The Big Cypress fox squirrel is listed as threatened by the Florida Fish and Wildlife Conservation Commission (Commission) under Rule 68A–27.004 (formerly 39–27.004) of the Florida Administrative Code. This rule provides that no one may take, possess, transport, molest, harass, or sell any threatened species, their parts, or their nests except as authorized by a permit from the Commission. Permits are issued for conservation purposes or scientific purposes only after the applicant shows the activity will not have a negative impact on the survival of the threatened species. The Commission typically has not authorized the take of animals, but does authorize take of nest trees and nests outside of nesting season when the nest is not active (J. Beever, Florida Fish and Wildlife Conservation Commission, personal communication 2000). The Commission also provides technical assistance and recommendations to other government agencies that regulate development activities in the Big Cypress fox squirrel range. According to Section 372.0725 of the Florida Statutes, it is unlawful for anyone to kill or wound a Big Cypress fox squirrel or to intentionally destroy the nest of a Big Cypress fox squirrel, except as provided for in the rules by the Commission. Most other State agencies have not promulgated specific regulations to protect this or other animals, but instead help enforce the Commission's regulatory protections for wildlife. On many State lands managed by agencies other than the Commission, the hunting season, including permits, is managed by the Commission under its Wildlife Management Area program. Such properties include Picayune Strand and Okaloacoochee State Forests. On these properties, the Commission has the lead responsibility for activities that involve the take of wildlife.

Under the Environmental Resources Permitting program (ERP) implemented by the South Florida Water Management District (SFLWMD), Big Cypress fox squirrels and Big Cypress fox squirrel habitat on private lands receive protection. The Big Cypress fox squirrel has been designated under this program as an aquatic or wetland-dependent species that uses upland habitat for nesting. In order to get a permit from SFLWMD to begin an activity, like converting land for agricultural purposes, the landowner must provide assurances that the activity will not adversely impact the value of wetlands and other surface waters for Big Cypress fox squirrels, the value of uplands for nesting (foraging areas or wildlife corridors are not included), and will not cause adverse secondary impacts to the Big Cypress fox squirrel. (Basis of Review for ERP applications, January 2001, as referenced in Chapter 40E–4, Florida Administrative Code). As such, its upland nest and wetland areas receive consideration during the wetland permitting review. Projects where this subspecies or its habitat have been observed through surveys are required to preserve onsite habitat, implement a Big Cypress fox squirrel management plan, and minimize the spread of exotic plants onsite.

On all properties under jurisdiction of the Florida Division of Recreation and Parks, collection of specimens is allowed only by permit. This includes Collier-Seminole State Park and Fakahatchee Strand State Preserve Park. This prohibition is in addition to the statewide prohibition of take of Big Cypress fox squirrels imposed by the Commission. Other State land-managing agencies have similar authority to regulate public access and to manage the vegetation and other natural resources. Lands managed by the Florida Department of Environmental Protection (FLDEP) are protected by State park regulations. Also, Big Cypress fox squirrels and other resources on Federal conservation lands are protected by rules imposed by land management agencies, such as the National Park Service for Big Cypress National Preserve, to generally protect resources. In both cases, use of motor vehicles is

regulated or restricted, and take of Big Cypress fox squirrels is prohibited.

Substantial areas of Big Cypress fox squirrel habitat are on conservation lands or on private lands not currently threatened by development. Regulatory mechanisms exist that prevent direct take, and ERP rules provide some protection to the species' habitat. Therefore, the available information does not lead us to conclude that the species is threatened or endangered due to inadequacy of existing regulatory mechanisms.

5. *Other natural or manmade factors affecting its continued existence.* Fox squirrel reproduction varies greatly from year to year in response to food supplies. There are few data on how Big Cypress fox squirrels utilize their native habitats and on how many squirrels exist in these habitats. Based on the best available information, we do not believe that food availability is currently a threat that could lead the fox squirrel toward extinction.

Based on current information and recorded sightings, we believe Big Cypress fox squirrels cross roads and are found near them. Road mortality is documented for the Big Cypress fox squirrel, but a very large portion of this subspecies' habitat has few, if any roads, so road mortality in these areas is likely to be minimal. While road mortality may cause declines in numbers of squirrels in certain urban areas or other areas with roads, in the absence of demographic data, we have no evidence that the subspecies is threatened by road mortality.

No studies have documented the effects of pesticides on Big Cypress fox squirrels, and we have no evidence that poisoning is a major cause of mortality for big Cypress fox squirrels on golf courses. Poisoning has not been documented sufficiently for us to consider it a threat to the continued existence of the species.

Hurricanes in 1935 (Labor Day), 1960 (Donna), and 1992 (Andrew) extensively damaged squirrel habitat (Moore 1956, Brown 1971). The 1960 hurricane toppled nearly all the suitable nesting trees in Everglades City and virtually eliminated a Big Cypress fox squirrel population that inhabited a public park (Brown 1971, Humphrey and Jodice 1992). None of the three catastrophic hurricanes since 1930 impacted more than a fraction of the squirrel's range. The range of the subspecies is large enough to ensure that catastrophic hurricane damage is unlikely throughout the range in any 1 year. The Big Cypress fox squirrel and other southeastern fox squirrel subspecies have evolved under conditions of periodic hurricane disturbances, the most important of which for fox squirrels is probably large-scale destruction of trees. Therefore, we do not believe that hurricanes are a threat to the continued existence of the Big Cypress fox squirrel.

Finding

We have reviewed the petition, the literature cited in the petition, other available literature and information, and consulted with species experts and other individuals familiar with the Big Cypress fox squirrel. On the basis of the best available scientific and commercial information, we find that the petitioned action is not warranted at this time. The status review revealed a lack of reliable data and information on the current status and any trend in density and abundance of Big Cypress fox squirrels in natural or seminatural habitats over time. In particular, we have no reliable information on the sizes of Big Cypress fox squirrel populations on conservation lands or private lands in southwest Florida, and the most recent information on Big Cypress fox squirrels on privately owned ranches in Lee and Hendry Counties is from a very brief survey conducted in 1989 (Wooding 1997). Studies as described in this finding and in our available literature indicate the Big Cypress fox squirrel has lost habitat in some areas to urbanization, agriculture, and mining. Nevertheless, conservation lands cover 58 percent of this subspecies' historic range, and areas of habitat exist on private ranches and other urban areas.

Based on the best available information, potential Big Cypress fox squirrel habitat appears to be more than twice what was previously estimated. In addition, the Big Cypress fox squirrel still occupies most of its historic range in southwest Florida and has shown itself to be adaptable, by residing in altered habitats such as golf courses and residential areas where native habitat is preserved, and mobile in its native habitat. Furthermore, quantitative or substantial information on the Big Cypress fox squirrel, its status, and its habitat use and requirements is lacking. Therefore, based on uncertainties about how this fox squirrel uses its native habitat and on the actual status of the Big Cypress fox squirrel population, and due to the amount of available potential habitat to this fox squirrel, we cannot conclude that the Big Cypress fox squirrel is threatened or endangered due to the destruction or curtailment of its habitat or range.

We found no evidence that the species is threatened by overutilization for commercial, recreational, or educational purposes (i.e., poaching), nor by disease or predation. We also have no data to show that inadequacies in the existing regulatory mechanisms may threaten the survival of the Big Cypress fox squirrel. Thus, we cannot conclude that the Big Cypress fox squirrel qualifies for listing as an endangered or threatened species due to any of the five factors as defined in the Act. Because the available information does not demonstrate that the Big Cypress fox squirrel meets the definition of threatened or endangered, we find that listing the Big Cypress fox squirrel (*Sciurus niger avicennia*) as threatened is not warranted at the present time.

References Cited

A complete list of all references cited in this document, as well as others, is available upon request from the South Florida Ecological Services Office (see **ADDRESSES** section).

Author

The primary author of this document is David L. Martin (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: February 15, 2002.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 02–4336 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 011018255–1255–01; I.D. 071001F]

RIN 0648–AO51

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 11

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 11 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Amendment 11), as prepared and submitted by the Gulf of Mexico Fishery Management Council. This proposed

rule would require owners or operators of all vessels harvesting shrimp in the exclusive economic zone of the Gulf of Mexico (Gulf EEZ) to obtain a commercial vessel permit for Gulf shrimp; prohibit the use of traps to harvest royal red shrimp in the Gulf EEZ; and prohibit the transfer of royal red shrimp at sea. The permit requirement would provide an accurate and efficient method of identifying and quantifying the number of vessels in the Gulf EEZ shrimp fishery. The prohibition of the use of traps for royal red shrimp is intended to prevent gear conflict and potential overfishing. The prohibition on transfer of royal red shrimp at sea is intended to enhance enforceability of the prohibition on use of traps in the fishery.

DATES: Comments must be received no later than 4:30 p.m., eastern standard time, on April 11, 2002.

ADDRESSES: Written comments on the proposed rule should be sent to Dr. Steve Branstetter, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or Internet.

Requests for copies of Amendment 11, which includes an environmental assessment and regulatory impact review (RIR), should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619–2266; telephone: 813–228–2815; fax: 813–225–7015; e-mail: gulfcouncil@gulfcouncil.org. Copies of the Gulf of Mexico Fishery Management Council's Minority Report on Amendment 11 may also be obtained from the same address.

Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to Robert Sadler, Southeast Regional Office, NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Dr. Steve Branstetter, telephone: 727–570–5305, fax: 727–570–5583, e-mail: Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for shrimp in the Gulf EEZ is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council), approved by NMFS, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Need for a Federal Commercial Vessel Permit for Gulf Shrimp

The shrimp fishery is the largest fishery in terms of numbers of fishing vessels and participants in the Gulf of Mexico, but is one of the few federally managed fisheries with no fishing permit requirement. Some data collection and vessel identification systems exist through either state or Federal programs, but none is comprehensive or specifically identifies shrimp fishing vessels that fish in the EEZ. NMFS maintains two record systems, each with a limited purpose. The Shrimp Landing File (SLF) contains landings by individual shrimp vessels over the course of a year. The Vessel Operating Units File (VOUF) is similar, but the purpose of this file is to maintain a record of vessel characteristics (i.e., length, age, horsepower, etc.) for all active shrimp fishing vessels during a particular year. Neither the SLF nor VOUF contains contact information for the owner, and neither indicates whether the vessel fishes in the Gulf of Mexico EEZ. Similarly, state licensing files list active fishing vessels, but these files do not provide information on whether vessels fish in state or Federal waters, or both. In some instances, these vessel licenses are not specific to a fishery; thus, they do not readily identify shrimp fishing vessels as opposed to vessels operating in other fisheries. Trip ticket systems are not used by all the states, nor is the data collection uniform among those states that do have a trip ticket system. Although the GulfFIN program, as administered by the Gulf States Marine Fisheries Commission, will standardize this information, this program is still under development. NMFS has supported the development of a national Vessel Identification System under the auspices of the US Coast Guard (USCG). However, the USCG is still reviewing options to implement this system, and its implementation is not anticipated in the near future.

Because existing vessel identification systems are not comprehensive nor do they specifically identify shrimp fishing vessels that fish in the EEZ, the Council concluded that a Federal vessel permit requirement for the shrimp fishery of the Gulf of Mexico was necessary to identify accurately the universe of vessels that fish for shrimp in the Gulf of Mexico EEZ and, thereby, to facilitate scientific assessments of annual fishing effort. The database would provide an enumeration of the vessels that would be authorized to fish for shrimp in the EEZ on an annual basis. A Federal permit system is a prerequisite tool for designing a statistically robust data collection program to canvass or randomly sample the activities of the shrimp fishery in the EEZ. Previous data collection programs were hampered by the inability to specifically identify the universe of vessels fishing for shrimp in the Gulf EEZ. The results of NMFS' 1992–1996 incidental harvest research program, as well as the Council's subsequent actions implemented in Amendment 9, which were based on the results of that program, have been questioned because the sampling was not conducted through a stratified random sampling effort. Similarly, during the summer 1998 Red Snapper/Shrimp Research Program, the Southeast Fisheries Science Center (SEFSC) attempted to implement a trial logbook program. That attempt was only partially successful because it failed to reach many of the intended participants in a timely manner. Without information to identify readily the participants in the fishery, sampling programs have depended on non-random sampling. A more robust analysis of the shrimp fishery is only possible through stratified random sampling of the existing fleet, and that kind of sampling is only possible where the specific vessels are readily identifiable. The permit system will serve as a source to identify a representative stratified random sample of shrimp vessels. Once the Agency has more accurately determined the number of fishery participants through the permit system, sample groups will be used to conduct research to collect biological, fishery, social, and economic data on the fishery, through use of observers, vessel monitoring systems, or other data collection methods. Anticipated improvements from the permitting and subsequent sampling procedures would include more precise red snapper bycatch estimation and more accurate determinations of economic and community impacts. Information collected under such future programs would aid in the formulation of sound management measures for the shrimp fishery and those finfish fisheries that are affected by bycatch and bycatch mortality arising from the shrimp fishery. Therefore, the Council concluded that a requirement for a Federal commercial vessel permit for the shrimp fishery in the Gulf EEZ should enhance the capability to achieve and maintain sustainable fisheries in the Gulf of Mexico.

Two Council members submitted a minority report expressing opposition to the implementation of Amendment 11. Their opposition was based on their belief that the permit requirements in Amendment 11 are inconsistent with national standards 5, 6, 7, and 8 of the Magnuson-Stevens Act, are devoid of adequate rationale, and will result in additional bureaucracy and costs. Copies of the minority report are available from the Council (see **ADDRESSES**).

Commercial Vessel Permit Requirement

This proposed rule would require an owner or operator of a vessel that fishes for shrimp in the Gulf EEZ or possesses shrimp in or from the Gulf EEZ to have a valid commercial vessel permit for Gulf shrimp on board. If Amendment 11 is approved, the permit requirement would become effective 90 days after the effective date of the final rule implementing the amendment. No qualifying criteria (e.g., documentation of landings, earned income from fishing, or other participation requirements) are proposed for the Gulf shrimp permit. If the permit requirement is approved, it would provide an accurate identification of the universe of vessels authorized to fish for shrimp in the Gulf EEZ. Establishing this known universe of vessels would provide the basis for future development of additional data collection programs to evaluate, more comprehensively, the biological, economic, and social characteristics of the fishery. When this information becomes available, the Council would be in a better position to evaluate whether any restrictive criteria for participation in the shrimp fishery should be considered in the future.

Permit Procedures

Required permitting procedures that apply to all Magnuson-Stevens Act permits issued by the Administrator, Southeast Region, NMFS, (RA) and that would apply to a Gulf shrimp permit are specified in 50 CFR 622.4. These procedures include requirements related to the following: application, fees, initial issuance, transferability, permit renewal, permit display, and other permit-related provisions. Basic requirements and procedures are summarized here for the convenience of the reader.

Permit Application

Permit application forms would be available from the RA. Completed application forms would have to be submitted to the RA at least 30 days prior to the date on which the applicant requests to have the permit made effective. However, given the large volume of permit applications anticipated for the Gulf shrimp fishery, NMFS would strongly encourage applicants to submit completed applications as soon as possible after publication of the final rule implementing Amendment 11. Any delay in submitting a completed application could result in an inability to issue a permit prior to the deadline for the permit requirement and, thus, preclude legal fishing for Gulf shrimp until the permit is issued.

The application for a commercial vessel permit would have to be submitted by the owner (in the case of a corporation, an officer or shareholder; in the case of a partnership, a general partner) or operator of the vessel. All vessel permits would be mailed to owners, whether the applicant is an owner or an operator. An applicant would have to provide the following:

(1) A copy of the vessel's valid USCG certificate of documentation or, if not documented, a copy of its valid state registration certificate.

(2) Vessel name and official number.

(3) Name, address, telephone number, and other identifying information of the vessel owner and of the applicant, if other than the owner.

(4) Any other information concerning the vessel, gear characteristics, principal fisheries engaged in, or fishing areas, as specified on the application form.

(5) Any other information that may be necessary for the issuance or administration of the permit, as specified on the application form.

Permit Fees

A fee would be charged for each application for a permit and for each request for replacement of such permit. The amount of each fee would be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RA, for determining the administrative costs of each special product or service. The fee may not exceed such costs and would be specified with each application form. The appropriate fee would have to accompany each permit application or request for permit replacement.

Initial Permit Issuance

The RA would issue an initial permit at any time to an applicant if the application was complete. An application would be complete when all requested forms, information, and documentation had been received. Upon receipt of an incomplete application, the RA would notify the applicant of the deficiency. If the applicant failed to correct the deficiency within 30 days of the date of the RA's letter of notification, the application would be considered abandoned.

Duration

A permit would remain valid for the period specified on it unless it was revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904 or unless the vessel was sold.

Transfer

A vessel permit for Gulf shrimp would not be transferable or assignable. A person who acquired a vessel and desired to conduct activities for which a Gulf shrimp vessel permit would be required would need to apply for a permit. If the acquired vessel was already permitted, the application would need to be accompanied by the original permit and a copy of a signed bill of sale or equivalent acquisition papers.

Renewal

Although a permit would be issued on an annual basis, an application for its renewal would be required only every 2 years. In the interim years, renewal would be automatic (without application) for a vessel owner who had met the specific requirements for the permit, had submitted all reports required under the Magnuson-Stevens Act, and was not subject to a permit sanction or denial of a permit application in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904. An owner whose permit was expiring would be mailed a notification by the RA approximately 2 months prior to its expiration. That notification would advise the status of the renewal. That is, the notification would advise that the renewal would be issued without further action by the owner (automatic renewal); that the permit was ineligible for automatic renewal; or that a new application would be required.

If the RA's notification indicates that the owner's permit would be eligible for automatic renewal, the RA would mail the automatically renewed permit approximately 1 month prior to expiration of the old permit.

If the RA's notification indicates that the owner's permit would be ineligible for automatic renewal, the notification would specify the reasons and would provide an opportunity for correction of any deficiencies. If the owner or dealer did not correct such deficiencies within 60 days after the date of the RA's notification, the renewal would be considered abandoned.

If the RA's notification indicates that a new application would be required, the notification would include a preprinted renewal application. If the RA receives an incomplete application, the RA would notify the applicant of the deficiency. If the applicant failed to correct the deficiency within 30 days of the date of the RA's letter of notification, the application would be considered abandoned.

A vessel owner or dealer who did not receive a notification from the RA regarding status of renewal of a permit by 45 days prior to expiration of the current permit would have to contact the RA.

Display

The vessel permit would have to be carried on board the vessel. The operator of a vessel would have to present the permit for inspection upon the request of an authorized officer.

Prohibition on the Use of Traps in the Royal Red Shrimp Fishery and on Transfer of Royal Red Shrimp At Sea

Royal red shrimp have been a small component of the Gulf of Mexico shrimp fishery since the early 1960s, and are traditionally harvested using modified shrimp trawls at depths exceeding 100 fathoms (183 meters). The Council concluded that allowing trap gear in this fishery would likely lead to gear conflicts and could lead to overfishing. An emergency interim rule prohibiting the use of trap gear in the royal red shrimp fishery within the EEZ of the Gulf of Mexico was promulgated on September 19, 2000, (65 FR 56500), and extended until September 14, 2001 (66 FR 14862, March 14, 2001). The Council requested that NMFS take that emergency action until regulations could be implemented through the proposed amendment to the FMP.

The intended effect of the proposed rule to prohibit the use of traps in this fishery is to prevent gear conflict that could compromise vessel safety and to prevent overfishing in the royal red shrimp fishery. Gear conflicts would otherwise be likely to occur between the traditional trawl fishery and the proposed trap line fishery on the royal red shrimp fishing grounds. This could result in substantial damage and loss of fishing gears and an increase in cost for participants in the fishery. Gear conflicts also would introduce vessel safety issues because of the depth of the fishing effort, the weight of the deployed gears (especially if they become tangled), and the fact that the fishing grounds are far offshore. Additionally, the introduction of new fishing effort could lead to overfishing of the resource. Since 1993, landings from the traditional trawl fishery have ranged from 200,000 to 335,000 lb (90,719 to 151,953 kg), which is approaching the maximum sustainable yield of 392,000 lb (177,808 kg) for the fishery. The prohibition of the transfer of royal red shrimp in the Gulf EEZ and of royal red shrimp taken in the Gulf EEZ regardless of where the transfer takes place is necessary to enhance the enforceability of the prohibition of the use of traps in the fishery.

Additional Information

Additional background and rationale for the measures discussed here are contained in Amendment 11, the availability of which was announced in the **Federal Register** (66 FR 37634; July 19, 2001). The public comment period on Amendment 11 expired on September 17, 2001. All comments received on Amendment 11 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

Classification

On October 17, 2001, NMFS approved Amendment 11 based on a determination that it was consistent with the national standards of the Magnuson-Stevens Act and other applicable law. In making that determination, NMFS took into account the data, views, and comments received during the comment period on Amendment 11.

This proposed rule has been determined to be significant for purposes of Executive Order 12866 because of its controversial nature. Copies of the RIR are available (see **ADDRESSES**).

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The Magnuson-Stevens Act provides the statutory basis for the rule. The proposed rule would: require all vessels (including boats) harvesting shrimp in the Gulf EEZ to obtain a commercial vessel permit for Gulf shrimp; prohibit the use of traps to harvest royal red shrimp in the Gulf EEZ; and prohibit the transfer of royal red shrimp at sea.

This permit requirement is needed to identify and quantify the number of vessels in the shrimp fishery of the Gulf EEZ. Under the existing FMP, shrimp vessels in the Gulf EEZ are not required to have federal permits. Consequently, the only means of determining the numbers of vessels operating in the Gulf EEZ are through NMFS' shrimp landings file (SLF), NMFS' vessel operating units file (VOUF), and state license files. Some states require licenses for shrimp vessels while others only license the activity (commercial landings). These data sources do not provide an accurate and direct means of determining the numbers of vessels participating in the shrimp fishery in the Gulf EEZ.

Mandatory vessel permitting proved to be an effective way of obtaining information on the number of potentially active vessels and participants in other commercial and for-hire fisheries operating in the Gulf EEZ, including the reef fish and coastal migratory pelagics fisheries. These data combined with logbook reporting, observer reports, and other surveys provided managers with essential information on effort, catch, bycatch, and other important parameters regarding these fisheries. Having a known universe of vessels operating in the Gulf EEZ shrimp fishery will help provide the same opportunities for scientists and managers to collect data on effort, catch, bycatch, and other important parameters of both targeted shrimp stocks, as well as bycatch species that may or may not be under separate management regimes. Presently, without permits, the numbers of vessels that operate in the Gulf EEZ shrimp fishery can only be estimated using the SLF, VOUF, and/or state license files.

The royal red shrimp fishery in the Gulf traditionally operated as a trawl fishery. Traps are not included on the list of allowable gear for the royal red shrimp fishery, or the penaeid shrimp fishery in general. However, a recent request to allow trap gear was considered and denied due to potential gear conflicts and the increased possibility of exceeding maximum sustainable yield as a result of this new effort. The prohibition on the use of traps was implemented through an emergency interim rule which expired on September 14, 2001. Consequently, unless a more permanent prohibition through a plan amendment is implemented, future use of trap gear could occur legally under 50 CFR, Part 600.747. The prohibition on the transfer of royal red shrimp at sea is intended to enhance enforceability of the prohibition of the use of traps in the fishery. The transfer prohibition is not expected to impact fishery participants using authorized gear, i.e. trawls, since transfer at sea has not been and is not a customary practice in the royal red shrimp fishery.

Generally, a fish-harvesting business is considered a small business if it is independently owned and operated and not dominant in its field of operation, and if it has annual receipts not in excess of $3.0 million. Although there are several fleet operations in the Gulf shrimp fishery, their actual number is not known, in part due to the lack of permit data. Considering the low likelihood that these operations are dominant in the harvesting sector of the shrimp fishery, the gross receipts criterion may be used to define a small business in the shrimp fishery.

Based on SLF and VOUF, the number of shrimp vessels in the Gulf ranges from approximately 3,500 to 5,000. State license files indicate that there are 13,163 shrimp boats in the Gulf. The proposed Gulf shrimp vessel permit would be required on all shrimp vessels fishing in the EEZ. This would affect practically all shrimp vessels

and at least some shrimp boats. The number of affected shrimp boats is unknown, but will ultimately depend on the number of boats that prosecute the EEZ component of the fishery.

Ward et al. (1995) reported that the average gross revenues for shrimp vessels are approximately $82,000 (converted to 1999 prices, based on the producer price index (PPI) for all commodities). One standard deviation from this average provides a range of $16,000 to $425,000. Considering that even the upper limit of the revenue range is well below the $3.0 million threshold, all shrimp vessel operations, and thus undoubtedly all shrimp boat operations as well, are small business entities. Thus, the substantial number criterion would be met. Within these small entities, significant variations of revenues occur by size of vessels and by home port state. Ward et al. (1995) estimated that average annual revenues of shrimp vessels in the Gulf (as adjusted by the PPI in 1999) by length of vessel are: $4,000 for vessels less than 25 ft (7.6 m), $23,000 for vessels between 25 and 50 ft (7.6 and 15.2 m) and, $198,000 for vessels greater than 50 ft (15.2 m). Broken down by homeport state, the average annual revenues of shrimp vessels are: $112,000 for Alabama, $106,000 for Florida, $9,000 for Louisiana, $45,000 for Mississippi, and $192,000 for Texas.

For purposes of NMFS' rules, the determination whether a ''significant economic impact'' results is determined by examining two issues: disproportionality and profitability. To determine disproportionate impacts, the pertinent question is whether the regulations place a substantial number of small entities at a significant competitive disadvantage compared to large entities. All the commercial entities potentially affected by the proposed rule are considered small entities so that the issue of disproportionality does not arise in the present case. The pertinent question in determining profitability is whether the regulations significantly reduce profit for a substantial number of small entities. Ward et al. (1995) estimated the profits (total revenues less total costs) of shrimp vessels in the Gulf. The average net revenues (profits) for a shrimp vessel in the Gulf are approximately $12,000 (converted to 1999 prices, based on the producer price index (PPI) for all commodities). Average profit for vessels by vessel length are: $1,598 for vessels less than 25 ft (7.6 m), $7,949 for vessels between 25 and 50 ft (7.6 and 15.2 m), and $8,457 for vessels greater than 50 ft (15.2 m). Broken down by homeport state, average profits are: $4,769 for Alabama, $29,832 for Florida, $3,286 for Louisiana, $13,876 for Mississippi, and $11,452 for Texas. The cost of a vessel permit is $50. Thus, the permit costs as a percent of profit would be approximately 0.4 percent per vessel on average. By vessel size category, permit costs as a percentage of profits would be 3.1 percent for vessels less than 25 ft (7.6 m), 0.6 percent for vessels between 25 and 50 ft (7.6 and 15.2 m), and 0.6 percent for vessels greater than 50 ft (15.2 m). By homeport state, permit costs as a percentage of profits would be 1.0 percent for Alabama vessels, 0.2 percent for Florida vessels, 1.5 percent for Louisiana vessels, 0.4 percent for Mississippi vessels, and 0.4 percent for Texas vessels.

Traps have not been an allowable gear in the royal red shrimp fishery prior to this rule, due to, first, their exclusion from the allowable gear list for this fishery and, second, an emergency interim rule prohibiting their use that expired on September 14, 2001. Although only one fisherman has petitioned to use trap gear in the royal red shrimp fishery, designation of the gear as allowable for this fishery, which will occur automatically without promulgation of this rule, would make it available to all fishermen. It is indeterminate, however, how many fishermen might elect to utilize the gear or how said use would affect the economic performance of the fishing operations. Although it can probably be presumed that the petitioning fisherman may have intended to test the gear, extension of same to any portion of other fishermen is without empirical basis. Further, in the absence of economic data on the use of trap gear in this fishery, it is not possible to precisely characterize potential foregone opportunity. The historical lack of interest in the use of trap gear in the royal red shrimp fishery, as evidenced by the single petition for allowance, suggests that the economic rationale for its use is not strong, leading to a conclusion that continued prohibition would not generate significant adverse economic impacts in terms of foregone opportunity. Further, although it is not known whether the petitioning fisherman made investments in the gear prior to either it's approval or testing, significant investment prior to such would not have been financially sound and is unlikely to have occurred. With regard to transfer at sea, since this practice does not occur in the royal red shrimp fishery, this prohibition will not generate any adverse impacts. The permit costs, $50.00 per vessel, and burden time, $4.00 per vessel, (estimated at 20 minutes per permit application) are the only costs imposed by the permitting requirement. The estimated vessel cost is $54.00 per vessel and $378,000 for the industry for the first year. As such, the proposed rule would not effect a significant reduction in vessel profits. Therefore, the proposed rule would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis was not required.

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

This proposed rule contains collection-of-information requirements subject to the PRA--namely, a requirement to submit an application for a Gulf shrimp commercial vessel permit and a vessel identification requirement. In addition, NMFS intends to revise the Multiple Fishery Vessel Application (Application) that will be used for the Gulf shrimp permit and is used for other fishery permits issued by the NMFS Southeast Regional Office. NMFS intends to add data fields for the applicant's birth date, street address, and county; vessel net tonnage; vessel gross tonnage, and vessel hull identification number. The permit application requirement and the new application data field requirements have been submitted to OMB for approval. The public reporting burden for the collection of information related to the Gulf shrimp permit application and the additional data elements on the Application is estimated to average 20 minutes per response. This estimate of the public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. The vessel identification requirement was previously approved by OMB under control number 0648–0358, with an estimated response time of 45 minutes total per vessel.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of the collection-of-information requirements, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: February 19, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs,National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.2, the definition of ''Shrimp'' is revised to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Shrimp means one or more of the following species, or a part thereof:

(1) Brown shrimp, *Farfantepenaeus aztecus.*

(2) White shrimp, *Litopenaeus setiferus.*

(3) Pink shrimp, *Farfantepenaeus duorarum.*

(4) Royal red shrimp, *Hymenopenaeus robustus.*

(5) Rock shrimp, *Sicyonia brevirostris.*

(6) Seabob shrimp, *Xiphopenaeus kroyeri.*

* * * * *

3. In § 622.4, paragraph (a)(2)(xi) is added to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(xi) *Gulf shrimp.* For a person aboard a vessel to fish for shrimp in the Gulf EEZ or possess shrimp in or from the Gulf EEZ, a valid commercial vessel permit for Gulf shrimp must have been issued to the vessel and must be on board.

* * * * *

4. In § 622.6, paragraph (a)(1)(i) introductory text is revised to read as follows:

§ 622.6 Vessel and gear identification.

(a) * * *

(1) * * *

(i) *Official number.* A vessel for which a permit has been issued under § 622.4 must display its official number--

* * * * *

5. In § 622.31, paragraph (k) is added to read as follows:

§ 622.31 Prohibited gear and methods.

* * * * *

(k) *Traps for royal red shrimp in the Gulf EEZ and transfer at sea.* A trap may not be used to fish for royal red shrimp in the Gulf EEZ. Possession of a trap and royal red shrimp on board a vessel is prohibited. A trap used to fish for royal red shrimp in the Gulf EEZ may be disposed of in any appropriate manner by the Assistant Administrator or an authorized officer. In addition, royal red shrimp cannot be transferred in the Gulf EEZ, and royal red shrimp taken in the Gulf EEZ cannot be transferred at sea regardless of where the transfer takes place.

[FR Doc. 02–4451 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 37

Monday, February 25, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Friday, March 1, 2002. The meeting will be held in Room M09 at the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC beginning at 8:30 a.m.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Defense, and Transportation; the Administrators of the Environmental Protection Agency and General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor, a Native Hawaiian; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Chairman's Welcome
II. Chairman's Report
III. Report of Executive Committee
  A. Revision Council Mission Statement
  B. Technical Amendments to Section 106 Regulations
IV. Report of the Preservation Initiatives Committee
  A. Preservation Executive Order
  B. Preservation America Initiative
  C. Heritage Tourism Initiatives
V. Report of the Federal Agency Programs Committee
  A. Implementation of Council's Policy Statement on Balancing Cultural and Natural Values on Federal Lands
  B. Federal Program Improvement Priorities and Initiatives
VI. Report of the Communications, Education, and Outreach Committee
  A. Recommendations Regarding Council Communications Audit
  B. Presidential Historic Preservation Awards
  C. Preservation Leadership Conference
VII. Report of the Historic Preservation and Security Task Force
  A. Status of National Capital Planning Commission Report on Designing for Security in the Nation's Capital
  B. Report on Washington Monument Section 106 Review
VIII. Report of the Missouri River Task Force
IX. Executive Director's Report
  A. Council FY 2003 Budget Request
  B. Reorganization of Council Staff
  C. Section 106 Exemption for Historic Pipelines
X. New Business
XI. Adjourn

Note: The meetings of the Council are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., Room 809, Washington, DC, 202–606–8503, at least seven (7) days prior to the meeting.

For further information contact: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., #809, Washington, DC 20004.

Dated: February 20, 2002.

John M. Fowler,

Executive Director.

[FR Doc. 02–4439 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–100–1]

Aventis CropScience; Availability of Environmental Assessment for Extension of Determination of Nonregulated Status for Canola Genetically Engineered for Male Sterility, Fertility Restoration, and Glufosinate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment has been prepared for a proposed decision to extend to additional canola events our determination that certain canola events developed by Aventis CropScience, which have been genetically engineered for male sterility, fertility restoration, and tolerance to the herbicide glufosinate, are no longer considered regulated articles under our regulations governing the introduction of certain genetically engineered organisms. We are making this environmental assessment available to the public for review and comment.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by March 27, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–100–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–100–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 01–100–1'' on the subject line.

You may read the extension request, the environmental assessment, and any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. James White, Plant Protection and Quarantine, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–5490. To obtain a copy of the extension request or the environmental assessment, contact Ms. Kay Peterson at (301) 734–4885; e-mail: *Kay.Peterson@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Further, the regulations in § 340.6(e)(2) provide that a person may request that APHIS extend a determination of nonregulated status to other organisms. Such a request must include information to establish the similarity of the antecedent organism and the regulated article in question.

Background

On September 9, 2001, APHIS received a request for an extension of a determination of nonregulated status (APHIS No. 01–206–01p) from Aventis CropScience (Aventis) of Research Triangle Park, NC, for canola (*Brassica napus L.*) transformation events designated as MS1 and RF1 and RF2, which have been genetically engineered for male sterility (MS1), fertility restoration (RF1 and RF2), and tolerance to the herbicide glufosinate (MS1, RF1, and RF2). The Aventis request seeks an extension of a determination of nonregulated status issued in response to APHIS petition number 98–278–01p for male sterile canola transformation event MS8 and fertility restoration canola transformation event RF3, the antecedent organisms (see 64 FR 15337–15338, Docket No. 98–114–2, published March 31, 1999). Both MS8 and RF3 are also tolerant to the herbicide glufosinate. Based on the similarity of canola events MS1 and RF1 and RF2 to the antecedent organisms, Aventis requests a determination that MS1 and RF1 and RF2 do not present a plant pest risk and, therefore, are not regulated articles under APHIS' regulations in 7 CFR part 340.

Analysis

Like the antecedent organisms, canola events MS1 and RF1 and RF2 have been genetically engineered to contain a *barnase* gene (MS1) for male sterility or a *barstar* gene (RF1 and RF2) for fertility restoration. The *barnase* gene expresses a ribonuclease that blocks pollen development and results in a male-sterile plant, and the *barstar* gene encodes a specific inhibitor of this ribonuclease and restores fertility. The *barnase* and *barstar* genes were derived from *Bacillus amyloliquefaciens*, and are linked to in the subject transformation events to the *bar* gene derived from *Streptomyces hygroscopicus*. The *bar* gene encodes the enzyme phosphinothricin-N-acetyltransferase (PAT), which confers tolerance to the herbicide glufosinate. The subject canola events and the antecedent organisms were developed through use of the *Agrobacterium tumefaciens* method, and expression of the added genes in MS1 and RF1 and RF2 and the antecedent organisms is controlled in part by gene sequences derived from the plant pathogen *A. tumefaciens*. In summary, the Aventis extension request states that canola events MS1 and RF1 and RF2 and the antecedent organisms contain the same genetic elements with the exception of the antibiotic resistance marker gene *nptII* in MS1 and RF1 and RF2, which was used as a transformant selection tool during the developmental process. The parental variety Drakkar was used to develop both the antecedent organisms and MS1 and RF1 and RF2.

Canola events MS1 and RF1 and RF2 and the antecedent organisms were genetically engineered using the same transformation method and contain the same enzymes for male sterility, fertility restoration, and glufosinate herbicide tolerance. Accordingly, we have determined that canola events MS1 and RF1 and RF2 are similar to the antecedent organisms in APHIS petition number 98–278–01p, and we are proposing that canola events MS1 and RF1 and RF2 should no longer be regulated under the regulations in 7 CFR part 340.

The subject canola events have been considered regulated articles under APHIS' regulations in 7 CFR part 340 because they contain gene sequences derived from a plant pathogen. However, canola events MS1 and RF1 and RF2 have been field tested in numerous countries, including the United States and Canada, and after having received the appropriate Canadian approvals, have been marketed commercially in Canada since 1996 with no reports of adverse effects on human health or the environment.

Should APHIS approve Aventis' request for an extension of a determination of nonregulated status, canola events MS1 and RF1 and RF2 would no longer be considered regulated articles under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations would no longer apply to the field testing, importation, or interstate movement of the subject canola events or their progeny.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine any potential environmental impacts associated with the proposed extension of a determination of nonregulated status for the subject canola events. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Copies of the Aventis extension request and the EA are available from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–4385 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Silver Pearl Land Exchange; Eldorado National Forest, El Dorado and Placer Counties, California

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) on a proposal to acquire approximately 3,994 acres of Sierra Pacific Industries Corporation land in exchange for 2,126 acres of National

Forest System land. The purpose of the exchange is to improve land management efficiencies by consolidating land ownership, while obtaining lands providing a variety of public benefits, including ecological and recreational values; and to eliminate the need to provide access to a private parcel within a roadless (RARE II) area. It is believed that the integrity of recreational, ecological and economic values will be improved by the consolidation of ownership resulting from a land exchange. The values of the lands exchanged must be equal.

DATES: The draft Environmental Impact Statement (EIS) is scheduled to be completed in June 2002 for public review and comment. The final EIS is scheduled to be completed by December 2002.

ADDRESSES: Send written comments to Elaine Gee, Project Leader, Eldorado National Forest, 7600 Wentworth Springs Road, Georgetown, CA 95634.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Elaine Gee, at the above address, or call her at 530–333–4312.

SUPPLEMENTARY INFORMATION: The Forest Service is initiating this action in order to exchange lands that will provide a balance in public benefits while improving management opportunities. Lands within the Rubicon River Canyon (recommended for Wild and Scenic River status), the Silver Fork of the American River (a Wild and Scenic eligible river) and the Pyramid-Bassi Roadless Area (RARE II); lands along the Pony Express National Historic Trail are proposed for acquisition; along with other lands containing unique ecological values, valuable timber resources and important recreational opportunities. The lands to be exchanged also contain important resource values, including lands suitable for growth and harvest of commercial conifers and areas that contain quality wildlife habitat. Also considered is the opportunity to consolidate lands into contiguous blocks that can be more efficiently and economically managed, thereby facilitating the ownership objectives of both the Forest Service and Sierra Pacific Industries Corporation. All federal lands proposed for exchange are on the Eldorado National Forest and are in compliance with the land adjustment management direction in the 1989 Eldorado National Forest Land and Resources Management Plan.

The exchange meets the public interest requirements in 36 CFR 254.3(b): (1) The resource values and the public objectives served by the non-federal lands and interests to be acquired are equal or exceed the resource values and the public objectives served by the federal lands to be disposed; and (2) the intended use of the disposed federal land will not substantially conflict with established management objectives on adjacent federal lands.

Lands will be exchanged on a value for value basis, based on current fair market value appraisals. The appraisal is prepared in accordance with the Uniform Standards for Federal Land Acquisition. The appraisal prepared for the land exchange is reviewed by a qualified review appraiser to ensure that it is fair and complies with the appropriate standards. Under the Federal Land Policy and Management Act of 1976, all exchanges must be equal in value. Forest Service regulations at 36 CFR 254.3(c) require that exchanges must be of equal value or equalized pursuant to 35 CFR 254.12 by cash payment after making all reasonable efforts to equalize values by adding or deleting lands. If lands proposed for exchange are not equal in value, either party may make them equal by cash payment not to exceed 25 percent of the federal land value.

The decision to be made is what lands, if any, should be exchanged as part of this proposal. The proposed action is to exchange approximately 2,126 acres of National Forest System land for approximately 3,994 acres of Sierra Pacific Industries Corporation land, adjusted for equal value as required by law. Other alternatives will be developed based on significant issues identified during the scoping process for the environmental impact statement. All alternatives will need to respond to the specific condition of providing benefits equal to or better than the current condition. Alternatives being considered at this time include: (1) no action and (2) exchanging lands as identified in the proposed action.

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from the Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. To facilitate public participation information about the proposed action was mailed to all who expressed interest in the proposed action based on publication in the Eldorado National Forest Schedule of Proposed Action. The Forest Service hosted a public meeting/open house to present the proposal at the Eldorado National Forest Headquarters at 100 Forni Road Placerville, CA on December 13, 2001. Notification of the additional public scoping periods will be published in the Mountain Democrat, Placerville, CA. The DEIS is scheduled to be available in June 2002 and the Forest will host another public meeting after the draft is mailed to interested parties.

Comments submitted during the scoping process should be in writing and should be specific to the proposed action. The comments should describe as clearly and completely as possible any issues the commenter has with the proposal. The scoping process includes:

(a) Identifying potential issues;

(b) Identifying issues to be analyzed in depth.

(c) Eliminating nonsignificant issues or those previously covered by a relevant previous environmental analysis;

(d) Exploring additional alternatives;

(e) Identifying potential environmental effects of the proposed action and alternatives.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by June 2002. EPA will publish a notice of availability of the draft EIS in the **Federal Register.** The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register.** At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is very important that those interested in the management of the Eldorado National Forest participate at that time.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage, but that are not raised until after completion of the final EIS may be waived or dismissed by the courts, *City of Angoon* v. *Hodel,* 803f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections

are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The final EIS is scheduled to be completed in December 2002. In the final EIS, The Forest Service is required to respond to substantive comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal.

John Berry, Forest Supervisor, Eldorado National Forest is the responsible official. As the responsible official he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 215).

Dated: February 19, 2002.

John D. Berry,

Forest Supervisor.

[FR Doc. 02–4368 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Airport Forest Health Timber Sale, Eldorado National Forest, Pacific Ranger District, El Dorado County, California

AGENCY: Forest Service, USDA.

ACTION: Cancellation of Notice of Intent.

SUMMARY: This document provides notice of cancellation of the intent to prepare an environmental impact statement (EIS) on a proposal to harvest timber, prescribe burn, and improve wildlife habitat on the Pacific Ranger District.

DATES: The draft environmental impact statement was originally scheduled for August 2000 with a 45-day public review and comment period. The publishing and distribution of this draft EIS is cancelled.

FOR FURTHER INFORMATION CONTACT: Don Errington, Project Leader, Pacific Ranger Station, 7887 Highway 50, Pollock Pines, California, 95726, Phone (530) 644–2349.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an environmental impact statement for the Airport Forest Health Timber Sale was published in the **Federal Register** on June 27, 2000 (Volume 65, Number 124, pp 39594–39596) announcing the intent to prepare and release a draft EIS in August 2000 with a final EIS scheduled for September 2000.

The original notice of intent informed the public of the agency's intention to document the analysis in an EIS. The primary reason for the cancellation is a change in management direction for the project area.

Dated: February 19, 2002.

John Berry,

Forest Supervisor, Eldorado National Forest.

[FR Doc. 02–4369 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Yates Duck Creek Federal Oil Well #1 Environmental Impact Statement: Medicine Bow-Routt National Forests and Thunder Basin National Grassland

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) on a proposal to drill for and develop conventional oil and gas resources with one (1) well on National Forest System lands in Campbell County, Wyoming. The well would be located on Federal Lease #WYW–141191, issued in 1997, in section 30, T.55N.,R.69W., 6th P.M.

The purpose of the project is to determine the potential for oil and gas development, by drilling one exploratory well in the Duck Creek area. The project potentially includes three phases: drilling, development and/or production of oil and/or gas if discovered in producible quantities, and abandonment. The initial phase of the project would include constructing access to the drill site, constructing a well pad, and drilling and testing the well. If results of testing indicate that oil and/or gas are present in producible quantities, production equipment and facilities would be installed. Development could include the installation of tanks and treatment equipment on the wellsite and a pipeline to transport the product. The project proposal also includes a plan for abandonment of the well. If oil and/or gas are not present in quantities that justify completion and production, the well would be abandoned and the site and access road reclaimed immediately. If the well is put into production, well abandonment and reclamation of the well site and access road would be performed to achieve a pre-project condition after the reservoir is depleted. The proposed well would be located in the Duck Creek Inventoried Roadless Area. If approved as proposed, the decision would permit road construction and reconstruction to occur in the roadless area. The EIS will comply with the requirements of the National Environmental Policy Act (42 U.S.C. sections 4321–4370a), the National Forest Management Act (16 U.S.C. 1600–1614), and the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), and their implementing regulations.

DATES: Comments concerning the proposal and the scope of the analysis will be accepted and considered at any time after publication of this notice in the **Federal Register** and prior to a decision being made.

ADDRESSES: Send written comments to Liz Moncrief, Medicine Bow-Routt National Forest Supervisor's Office, 2486 Jackson Street, Laramie, Wyoming 82070. Electronic mail may be sent to: *emoncrie@fs.fed.us*, FAX may be sent to 307–745–2398.

FOR FURTHER INFORMATION CONTACT: Liz Moncrief, Forest Service Project Leader, 307–745–2456.

SUPPLEMENTARY INFORMATION: Yates Petroleum Corporation has filed an application with the Bureau of Land Management for a permit to drill and complete one exploration well. Drilling and completion of the well requires construction of access roads, and may include installation of testing and production equipment. As surface management agency, the Forest Service proposes to permit surface operations associated with the development of oil and/or gas resources with the drilling of one (1) well including construction of access roads and production facilities. The Forest Service will prepare an Environmental Impact Statement. This EIS will disclose the environmental effects of the proposed oil and gas development.

In 1994, the Forest Service prepared the Thunder Basin Oil and Gas Leasing EIS and issued a Record of Decision

(ROD) for future oil and gas development on NFS lands on the Thunder Basin National Grasslands. This development authorized the Bureau of Land Management (BLM) to lease Federal oil and gas resources in the Duck Creek area subject to certain stipulations described in the ROD, and pertinent to the surface use of the NFS lands. Subsequent to this decision, the BLM offered the Federal lease for sale. Yates Petroleum purchased the lease in 1997. Pursuant to 43 CFR 3101.1–2 Surface Use Rights, the lessee has a right to develop the oil and gas resources on that lease area, subject to stipulations attached to the lease and other provisions as described.

The Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan of 1985, as amended by the April 22, 1994, Record of Decision for the Environmental Impact Statement (EIS) for Oil and Gas Leasing on the Thunder Basin National Grassland, provides stipulations for oil and gas leases, and standards and guidelines for oil and gas development on NFS lands. This proposal is consistent with the 1985 Land and Resource Management Plan.

The Thunder Basin National Grassland portion of the 1985 Plan is being revised through the Northern Great Plains Management Plan Revision process. The Final EIS and 2001 Revised Thunder Basin National Grassland Plan are completed. A record of decision is expected to be approved soon. This proposal is consistent with the 2001 Revised Thunder Basin National Grassland Plan and the preferred alternative in the Final EIS.

Decision To Be Made

The Responsible Official will consider the results of the analysis and its findings and then document the final decision in a Record of Decision (ROD). The decision will include a determination of the terms, conditions, and mitigation measures under which the proponent may develop the oil and/or gas resources while also protecting the surface natural resources in the area and providing for public safety.

Responsible Official

Rick Cables, Regional Forester, USDA Forest Service, Rocky Mountain Region, 740 Simms St., Golden, Colorado, 80401 is the official responsible for making the Forest Service decision on this action. He will document his decision and rationale in a Record of Decision.

Preliminary Issues

Proposed construction/reconstruction of access roads to the proposed well location could alter the character of portions of the Creek Inventoried Roadless Area.

Public Involvement

At this time, the Forest Service is seeking information, comments and other assistance from Federal, State and local agencies, and other individuals or organizations who have an interest in, or could be affected by the proposed action. The public is encouraged to take part in this process and to visit with Forest Service officials at any time during the analysis, and prior to the decision. While public comments are welcome at any time, comments received within 30 days of the publication of this notice in the **Federal Register** will be most useful for the identification of issues and the analysis of alternatives. Comments may be sent by electronic mail (e-mail) to *emoncrie@fs.fed.us.* Written comments may be mailed to the Medicine Row—Routt National Forest Supervisors Office, 2468 Jackson Street, Laramie, Wyoming 82070–6535, attention Liz Moncrief. Please reference the *Yates-Duck Creek O&G Well EIS* on the subject line. The name and mailing address of the commenter should be provided with their comments so that future documents pertaining to this environmental analysis and the decision can be provided to interested parties.

Estimated Dates for Filing

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review during March 2002. At that time, the EPA will publish a Notice of Availability (NOA) of the draft EIS in the **Federal Register.** The comment period on the draft EIS will be for a period of not less than 45 days from the date the EPA publishes the NOA in the **Federal Register.** It is important that those interested in the management of this area to comment at that time. The final EIS is expected to be available in July 2002. In the final EIS, the Forest Service will respond to any comments received during the public comment period that pertain to the environmental analysis. Those comments and the Forest Service responses will be disclosed and discussed in the draft EIS, which will be considered when making the final decision about this proposal.

The Public's Obligation To Comment

The Forest Service believes it is important to give reviewers an early notice of several court rulings related to public participation in the environmental review process. First, 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 reviewer's position and contentions. *Vermont* Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised during the Draft Environmental Impact Statement stage, but are not raised until after completion of the Final Environmental Impact Statement, may be waived or dismissed by the courts. *City of Angoon v. Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). As a result of these previous court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final Environmental Impact Statement.

To assist the Forest Service in identifying and considering issues and concerns related to the proposed action, comments on this Draft Environmental Impact Statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft document. Comments may also address the adequacy of the Draft Environmental Impact Statement or the merits of the alternatives displayed in the document. Reviewers should refer to the Council on Environmental Quality Regulations at 40 CFR 1503.3 for implementing the procedural provisions of the National Environmental Policy Act for addressing these points. Please note that any comments that are submitted in relation to this DEIS will be considered as public information.

Release of Names

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this Proposed Action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those whose submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that,

under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submissions and notify the requester that the comments may be resubmitted with or without name and address within ten (10) days.

Dated: February 11, 2002.

M.M. Underwood, Jr.,

Director, Physical Resources, USDA Forest Service Rocky Mountain Region.

[FR Doc. 02–4109 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Advisory Committee (PAC)

AGENCY: Forest Service, Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Deschutes Provincial Advisory Committee will meet on March 14, 2002 at the Crook County Library, Broughton Room, 200 E. 2nd Street in Prineville, Oregon. A business meeting will begin at 9:00 am and finish at 4:00 pm. Agenda items will include a discussion on PAC recommendations regarding the Northwest Forest Plan, Empowering Counties/Communities, and update on Timber Sales in Central Oregon, Trout Creek update, an update on the local Noxious Weed Program, an update on the Hosmer, Metolius Basin and the Upper Deschutes Resource Management Plan Subcommittees, Info Sharing and a Public Forum from 3:30 pm till 4:00 pm. All Deschutes Province Advisory Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Chris Mickle, Province Liaison, USDA, Bend-Ft. Rock Ranger District, 1230 NE., 3rd, Bend, OR, 97701, Phone (541) 383–4769.

Dated: February 16, 2002.

Leslie A.C. Weldon,

Forest Supervisor.

[FR Doc. 02–4364 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Stayton, Oregon on Monday, March 18, 2002. The meeting is scheduled to begin at 6 p.m., and will conclude at approximately 8:30 p.m. The meeting will be held in the South Room of the Stayton Community Center located on 400 West Virginia Street in Stayton, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (P.L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. Tentative agenda items include the following topics:

Discuss Opal Creek SRA Environmental Analysis decision

Transition of the Council membership in accordance with provisions of the Council Charter

Discuss future topics and meeting schedule for the Council

A direct public comment period is tentatively scheduled to begin at 8 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the March 18 meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Stephanie Phillips; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: February 15, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02–4366 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Siuslaw Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siuslaw Resource Advisory Committee (RAC) will meet on March 8, 2002. The meeting will begin at 9:00 a.m., in the Hatfield Marine Sciences Center, Room 9, at 2030 SW Marine Sciences Drive, Newport, OR. Agenda item will include: a review of projects submitted by entities other than the Forest Service; a continuation of the review of Forest Service projects that may be recommended to the Forest Supervisor for funding with Title II dollars; consideration of the draft bylaws for the Siuslaw RAC; and, a public comment period. The meeting is expected to adjourn at 4:00 p.m. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Linda Stanley, Community Development Specialist, Siuslaw National Forest, 541/750–7210 or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, OR 97339.

Dated: February 19, 2002.

Gloria D. Brown,

Forest Supervisor.

[FR Doc. 02–4363 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Madera County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of Resource Advisory Meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Pub. L. 92–463) and under the secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Sierra National Forest's Resource Advisory Committee for Madera County will meet on Monday, March 18, 2002. The Madera Resource Advisory Committee will meet at the Spring Valley Elementary School in O'Neals, CA. The purpose of the meeting is to review Committee ground rules and goals, project evaluation and project list timetables, public involvement strategies, and the project application process.

DATES: The Madera Resource Advisory Committee meeting will be held Monday, February 18, 2002. The meeting will be held from 7 p.m. to 9 p.m.

ADDRESSES: The Madera County RAC meeting will be held at the Spring Valley Elementary School, 46655 Road 200, O'Neals, CA, two and one half miles from State Highway 41.

FOR FURTHER INFORMATION CONTACT: Dave Martin, USDA, Sierra National Forest, 57003 Road 225, North Fork, CA 93643 (559) 877–2218 ext. 3100; e-mail: dmartin05@fs.fed.us.

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Review committee ground rules and goals; (2) review project evaluations and project list timetables; (3) review goals and objectives; (4) discuss public involvement strategies and the application process. 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 19, 2002.

David W. Martin,

District Ranger.

[FR Doc. 02–4370 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Delaware

AGENCY: Natural Resources Conservation Service, Delaware, USDA.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG for review and comment.

SUMMARY: It is the intention of NRCS in Delaware to issue the following new and revised conservation practice standard in Section IV of the FOTG: Nutrient Management (Code 590).

FOR FURTHER INFORMATION CONTACT: Elesa K. Cottrell, State Conservationist, Natural Resources Conservation Service (NRCS), Suite 101, 1203 College Park Dr., Dover, Delaware 19904–8713, telephone (302) 678–4160. Copies of the practice standard will be made available upon written request.

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Delaware.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Delaware will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Delaware regarding disposition of those comments and a final determination of change will be made.

Dated: February 1, 2002.

Elesa K. Cottrell,

State Conservationist.

[FR Doc. 02–4396 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Oklahoma

AGENCY: Natural Resources Conservation Service (NRCS) in Oklahoma, U.S. Department of Agriculture.

ACTION: Notice of availability of a proposed change in Section IV of the FOTG of the NRCS in Oklahoma for review and comment.

SUMMARY: It is the intention of NRCS in Oklahoma to issue new and revised conservation practice standards in Section IV of the FOTG. The standards are Deep Tillage (324), Riparian Herbaceous Cover (390), and Riparian Forest Buffer (391), Waste Utilization (633), Vegetative Barrier (601), Nutrient Management (590), Tree-Shrub Pruning (660), Windbreak/Shelterbelt Renovation (650), Windbreak/Shelterbelt Establishment (380), Anionic Polyacrylamide (PAM) Erosion Control (450), Grassed Waterway (412), Pipeline (516), Watering Facility (614), Forest Site Preparation (490), and Tree/Shrub Establishment (612).

DATES: Comments will be received on or before March 27, 2002.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Mark Moseley, Acting ASTC (Ecological Sciences), Natural Resources Conservation Service (NRCS), 100 USDA, Suite 206 Stillwater, OK 74074–2655. Copies of these standards will be made available upon written request. You may submit electronic requests and comments to *Mark.Moseley@ok.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mark Moseley, 405–742–1235.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Oklahoma will receive comments relative to the proposed change. Following that period, a determination will be made by the NRCS in Oklahoma regarding disposition of those comments and a final determination of change will be made.

Dated: February 1, 2002.

M. Darrel Dominick,

State Conservationist, Stillwater, Oklahoma.

[FR Doc. 02–4395 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for Rural Business Opportunity Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS), an Agency within the Rural Development mission area, announces the availability of grants of up to $50,000 per application from the Rural Business Opportunity Grant (RBOG) Program for fiscal year (FY) 2002, to be competitively awarded. For multi-state projects, grant funds of up to $150,000 will be available on a competitive basis.

DATES: Any applications received in the Rural Development State Office after the date of this notice will be considered for funding after June 30, 2002.

ADDRESSES: For further information, entities wishing to apply for assistance should contact a Rural Development State Office to receive further information and copies of the application package. Potential applicants located in the District of Columbia must send their applications to the National Office at:

District of Columbia

Rural Business-Cooperative Service, USDA
Specialty Lenders Division
1400 Independence Avenue, SW., Room 6867
Washington, DC 20250–3225
(202) 720–1400

A list of Rural Development State Offices follows:

Alabama

USDA Rural Development State Office
Sterling Center, Suite 601
4121 Carmichael Road
Montgomery, AL 36106–3683
(334) 279–3400

Alaska

USDA Rural Development State Office
800 West Evergreen, Suite 201
Palmer, AK 99645–6539
(907) 761–7705

Arizona

USDA Rural Development State Office
3003 North Central Avenue, Suite 900
Phoenix, AZ 85012–2906
(602) 280–8700

Arkansas

USDA Rural Development State Office
700 West Capitol Avenue, Room 3416
Little Rock, AR 72201–3225
(501) 301–3200

California

USDA Rural Development State Office
430 G Street, Agency 4169
Davis, CA 95616–4169
(530) 792–5800

Colorado

USDA Rural Development State Office
655 Parfet Street, Room E–100
Lakewood, CO 80215
(720) 544–2903

Delaware-Maryland

USDA Rural Development State Office
P. O. Box 400
4607 South DuPont Highway
Camden, DE 19934–9998
(302) 697–4300

Florida/Virgin Islands

USDA Rural Development State Office
P. O. Box 147010
4440 NW. 25th Place
Gainesville, FL 32606
(352) 338–3402

Georgia

USDA Rural Development State Office
Stephens Federal Building
355 E. Hancock Avenue
Athens, GA 30601–2768
(706) 546–2162

Hawaii

USDA Rural Development State Office
Federal Building, Room 311
154 Waianuenue Avenue
Hilo, HI 96720
(808) 933–8380

Idaho

USDA Rural Development State Office
9173 West Barnes Dr., Suite A1
Boise, ID 83709
(208) 378–5600

Illinois

USDA Rural Development State Office
2118 West Park Court, Suite A
Champaign, IL 61821
(217) 403–6202

Indiana

USDA Rural Development State Office
5975 Lakeside Boulevard
Indianapolis, IN 46278
(317) 290–3100

Iowa

USDA Rural Development State Office
Federal Building, Room 873
210 Walnut Street
Des Moines, IA 50309–2196
(515) 284–4663

Kansas

USDA Rural Development State Office
Suite 100
1303 SW First American Place
Topeka, KS 66604
(785) 271–2700

Kentucky

USDA Rural Development State Office
771 Corporate Drive, Suite 200
Lexington, KY 40503
(859) 224–7300

Louisiana

USDA Rural Development State Office
3727 Government Street
Alexandria, LA 71302
(318) 473–7921

Maine

USDA Rural Development State Office
P. O. Box 405
967 Illinois Avenue, Suite 4
Bangor, ME 04402–0405
(207) 990–9106

Massachusetts/Rhode Island/Connecticut

USDA Rural Development State Office
451 West Street, Suite 2
Amherst, MA 01002–2999
(413) 253–4300

Michigan

USDA Rural Development State Office
3001 Coolidge Road, Suite 200
East Lansing, MI 48823
(517) 324–5100

Minnesota

USDA Rural Development State Office
410 AgriBank Building
375 Jackson Street
St. Paul, MN 55101–1853
(651) 602–7800

Mississippi

USDA Rural Development State Office
Federal Building, Suite 831
100 West Capitol Street
Jackson, MS 39269
(601) 965–4316

Missouri

USDA Rural Development State Office
601 Business Loop 70 West
Parkade Center, Suite 235
Columbia, MO 65203
(573) 876–0976

Montana

USDA Rural Development State Office
P. O. Box 771
900 Technology Blvd., Unit 1, Suite B
Bozeman, MT 59715
(406) 585–2580

Nebraska

USDA Rural Development State Office
Federal Building, Room 152
100 Centennial Mall North
Lincoln, NE 68508
(402) 437–5551

Nevada

USDA Rural Development State Office
1390 South Curry Street
Carson City, NV 89703–9910
(775) 887–1222

New Jersey

USDA Rural Development State Office
Tarnsfield Plaza, Suite 22
790 Woodlane Road
Mt. Holly, NJ 08060
(609) 265–3600

New Mexico

USDA Rural Development State Office
6200 Jefferson Street, NE.
Room 255
Albuquerque, NM 87109
(505) 761–4950

New York

USDA Rural Development State Office
The Galleries of Syracuse
441 South Salina Street, Suite 357
Syracuse, NY 13202–2541
(315) 477–6400

North Carolina

USDA Rural Development State Office
4405 Bland Road, Suite 260
Raleigh, NC 27609
(919) 873–2000

North Dakota

USDA Rural Development State Office
P. O. Box 1737
Federal Building, Room 208

220 East Rosser Avenue
Bismarck, ND 58502–1737
(701) 530–2037

Ohio

USDA Rural Development State Office

Federal Building, Room 507
200 North High Street
Columbus, OH 43215–2418
(614) 255–2500

Oklahoma

USDA Rural Development State
Office 100 USDA, Suite 108
Stillwater, OK 74074–2654
(405) 742–1000

Oregon

USDA Rural Development State Office
101 SW Main Street, Suite 1410
Portland, OR 97204–3222
(503) 414–3300

Pennsylvania

USDA Rural Development State Office
One Credit Union Place, Suite 330
Harrisburg, PA 17110–2996
(717) 237–2299

Puerto Rico

USDA Rural Development State Office
654 Munoz Rivera Avenue
IBM Plaza, Suite 601
Hato Rey, Puerto Rico 00918–6106
(787) 766–5095

South Carolina

USDA Rural Development State Office
Strom Thurmond Federal Building
1835 Assembly Street, Room 1007
Columbia, SC 29201
(803) 765–5163

South Dakota

USDA Rural Development State Office
Federal Building, Room 210
200 4th Street, SW.
Huron, SD 57350
(605) 352–1100

Tennessee

USDA Rural Development State Office
3322 West End Avenue, Suite 300
Nashville, TN 37203–1084
(615) 783–1300

Texas

USDA Rural Development State Office
Federal Building, Suite 102
101 South Main Street
Temple, TX 76501
(254) 742–9700

Utah

USDA Rural Development State Office
Wallace F. Bennett Federal Building
125 South State Street, Room 4311
P. O. Box 11350
Salt Lake City, UT 84147–0350
(801) 524–4321

Vermont/New Hampshire

USDA Rural Development State Office
City Center, 3rd Floor 89 Main Street
Montpelier, VT 05602
(802) 828–6010

Virginia

USDA Rural Development State Office
Culpeper Building, Suite 238
1606 Santa Rosa Road
Richmond, VA 23229–5014
(804) 287–1550

Washington

USDA Rural Development State Office
1835 Black Lake Boulevard, SW.
Suite B
Olympia, WA 98512–5715
(360) 704–7740

West Virginia

USDA Rural Development State Office
Federal Building 75 High Street, Room 320
Morgantown, WV 26505–7500
(304) 284–4860

Wisconsin

USDA Rural Development State Office
4949 Kirschling Court
Stevens Point, WI 54481
(715) 345–7610

Wyoming

USDA Rural Development State Office
Federal Building, Room 1005
100 East B Street
P. O. Box 820
Casper, WY 82602
(307) 261–6300

SUPPLEMENTARY INFORMATON:

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements pertaining to this Notice are approved by the Office of Management and Budget (OMB) and were assigned OMB control number 0570–0024.

The RBOG program is authorized under section 306 of the Consolidated Farm and Rural Development Act (CONACT) (7 USC 1926(a)(11)). The Rural Development State Offices administer the RBOG program on behalf of RBS at the state level. The primary objective of the program is to improve the economic conditions of rural areas. Assistance provided to rural areas under this program may include technical assistance for business development and economic development planning.

A total of $2,100,000 of non-earmarked funds is available for the RBOG program for FY 2002. To ensure that a broad range of communities have the opportunity to benefit from the available funds, no grant will exceed $50,000, unless it is a multi-state project where funds may not exceed $150,000. Pursuant to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 2002 (Pub. L. No. 107–76) a total of $3,000,000 has been earmarked for Native Americans, the Mississippi Delta area, and Empowerment Zones, Enterprise Communities, and Rural Economic Area Partnerships. There is no project dollar amount limitation on applications for earmarked funds. Awards are made on a competitive basis using specific selection criteria contained in 7 CFR part 4284, subpart G. 7 CFR part 4284, subpart G, also contains the information required to be in the application package. The State Director may assign up to 15 discretionary points to an application, and the Agency Administrator may assign up to 20 additional discretionary points based on geographic distribution of funds, special importance for implementation of a strategic plan in partnership with other organizations, or extraordinary potential for success due to superior project plans or qualifications of the grantee. The projects that score the greatest number of points based on the selection criteria and discretionary points will be selected. Applications will be tentatively scored by the State Offices and submitted to the National Office for review, final scoring, and selection.

The National Office will review the scores based on the grant selection criteria and weights contained in 7 CFR part 4284, subpart G. All applicants will be notified by RBS of the Agency decision on the awards.

Dated: February 14, 2002.

John Rosso,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 02–4407 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Arizona Electric Power Cooperative, Inc.; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from

Arizona Electric Power Cooperative (AEPCO) for assistance from RUS to finance the construction and operation of a 40 MW gas turbine generation facility at the Apache Generating Station located in Cochise County, Arizona.

FOR FUTHER INFORMATION CONTACT: Dennis E. Rankin, Environmental Protection Specialist, RUS, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone: (202) 720–1953 or e-mail: *drankin@rus.usda.gov*.

SUPPLEMENTARY INFORMATION: AEPCO is proposing to install a 40 MW GE model LM6000 Sprint gas combustion turbine generation facility and modify the switchyard at their existing Apache Generating Station which is located at 3525 North Highway 191 South near Cochise, Arizona. Gas Turbine #4 will be configured to operate in the simple cycle mode. A new 100-foot tall stack will be required. Approximately 0.5 acres of the existing Apache Generation site will be needed for the proposed project. The existing plant infrastructure will be utilized for the new generation addition including gas lines, cooling water and transmission facilities.

Copies of the Environmental Assessment and FONSI are available at, or can be obtained from, RUS at the address provided herein, or from Ms. Teri McCaulou, AEPCO, 1000 South Highway 80, Benson, Arizona 85602, telephone: (520) 586–5122.

Dated: January 31, 2002.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–4408 Filed 2–25–02; 8:45 am]

BILLING CODE 3410–15–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC on Tuesday and Wednesday, March 12–13, 2002, at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, March 12, 2002

11:00 a.m.–Noon
Ad Hoc Committee—Public Rights-of-Way (Closed Meeting)
1:30 p.m.–5:00
Ad Hoc Committee—Public Rights-of-Way (Closed Meeting)

Wednesday, March 13, 2002

9:00 a.m.–10:00
Planning and Budget Committee
10:00 a.m.–11:00
Technical Programs Committee
11:00 a.m.–Noon
Nominating Committee
1:30 a.m.–3:00
Board Meeting

ADDRESSES: The meetings will be held at the Marriott at Metro Center Hotel, 775 12th Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–0001 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items.

Open Meeting

- Executive Director's report
- Approval of the minutes of the January 9, 2002 board meeting
- Technical Programs Committee: On-going research and technical assistance projects.
- Planning and Budget Committee: Budget spending plan for fiscal year 2002; fiscal year 2003; and out-of-town meetings.
- Nominating Committee: Review of the Nominating Committee charter.

Closed Meeting

- Ad Hoc Committee on Public Rights-of-Way

All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 02–4430 Filed 2–22–02; 8:45 am]

BILLING CODE 8150–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 11 a.m. and adjourn at 4 p.m. on Wednesday, March 13, 2002, at the Metropolitan Wilmington Urban League, 100 W. 10th Street, Conference Room, Wilmington, Delaware 19801. The Advisory Committee will provide an orientation to members in administrative matters, disseminate newly revised copies of its report, Delaware Citizens Guide to Civil Rights and Supporting Services, and hold a briefing session to hear from invited speakers on civil rights issues affecting the state.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ed Darden of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 19, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–4453 Filed 2–22–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 6 p.m. and adjourn at 8 p.m. on March 19, 2002, at the Radisson Hotel & Conference Center, 4728 Constitution Avenue, Baton Rouge, Louisiana 70808. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 19, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–4454 Filed 2–22–02; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1210]

Grant of Authority for Subzone Status; Austal USA, LLC (Shipbuilding); Mobile, AL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

WHEREAS, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

WHEREAS, an application from the City of Mobile, Alabama, grantee of FTZ 82, for authority to establish special-purpose subzone status for the shipbuilding facility of Austal USA, LLC (Austal), in Mobile, Alabama, was filed by the Board on January 9, 2001, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 1–2001, 66 FR 3984, 1–17–2001); and,

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were given subject to the standard shipyard restriction on foreign steel mill products;

NOW, THEREFORE, the Board hereby grants authority for subzone status at the shipbuilding facility of Austal USA, LLC, in Mobile, Alabama (Subzone 82H), at the location described in the application, subject to the FTZ Act and the Board's regulations, including Section 400.28, and subject to the following special conditions:

1. Any foreign steel mill product admitted to the subzone, including plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to Customs duties in accordance with applicable law, unless the Executive Secretary determines that the same item is not then being produced by a domestic steel mill.

2. In addition to the annual report, Austal shall advise the Board's Executive Secretary (§ 400.28(a)(3)) as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

3. All foreign-origin quota-class merchandise must be admitted to the subzone under privileged domestic status (19 CFR 146.43(a)(2)).

Signed at Washington, DC, this 12th day of February 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 02–4429 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1207]

Grant of Authority; Establishment of a Foreign-Trade Zone, Butte County, California

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Oroville Economic Development Corporation, a California non-profit corporation (the Grantee), has made application to the Board (FTZ Docket 9–2001, filed 2/6/01) and amended on August 21, 2001 (66 FR 45278, 8/28/01), requesting the establishment of a foreign-trade zone at sites in Butte County, California, adjacent to the San Francisco/Oakland/Sacramento, California Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (66 FR 10668, 2/16/01); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 253, at the sites described in the application, and subject to the Act and the Board's regulations, including Section 400.28, and subject to the Board's standard 2,000-acre activation limit.

Foreign-Trade Zones Board.

Signed at Washington, DC, this 12th day of February, 2002.

Donald L. Evans,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 02–4427 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1209]

Grant of Authority for Subzone Status; Rolls-Royce Corporation (Gas Turbine Engines), Indianapolis, IN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, the Foreign-Trade Zones Act provides for '' . . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

WHEREAS, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

WHEREAS, the Indianapolis Airport Authority, grantee of Foreign-Trade Zone 72, has made application to the Board for authority to establish special-purpose subzone status at the manufacturing facilities (gas turbine engines) of Rolls-Royce Corporation, located in Indianapolis, Indiana (FTZ Docket 38–2001, filed 9/18/2001);

WHEREAS, notice inviting public comment has been given in the **Federal Register** (66 FR 49161, 9/26/2001); and,

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application would be in the public interest;

NOW, THEREFORE, the Board hereby grants authority for subzone status at the gas-turbine engine manufacturing facilities of Rolls-Royce Corporation located in Indianapolis, Indiana (Subzone 72Q), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 12th day of February 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 02–4428 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; Amended Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative reviews.

SUMMARY: On December 19, 2000, the Department of Commerce published a retraction of the amended final results of reviews for the respondent-company FAG Kugelfischer Georg Schaefer AG with respect to the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany. The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The period of review is May 1, 1993, through April 30, 1994. At the time of our December 19th notice, one matter, relating to the above firm and the reviews of the orders on antifriction bearings and parts thereof from Germany, was pending before the United States Court of Appeals for the Federal Circuit. As there is now a final and conclusive court decision in this action, we are amending our final results of the reviews and we will subsequently instruct the Customs Service to liquidate entries subject to these reviews.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4733.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions in effect as of December 31, 1994. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations as codified at 19 CFR part 353 (1995).

SUPPLEMENTARY INFORMATION:

Background

On December 19, 2000, the Department of Commerce published a retraction of the amended final results of reviews for the respondent-company FAG Kugelfischer Georg Schaefer AG (FAG) with respect to the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany (see 65 FR 79341). The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The period of review is May 1, 1993, through April 30, 1994. At the time of our December 19th notice, one matter, relating to the reviews of the orders on antifriction bearings and parts thereof from Germany, was pending before the United States Court of Appeals for the Federal Circuit.

Pursuant to the remand order from the U.S. Court of International Trade (CIT) in SKF *USA Inc.* v. *United States*, Consol. Court No. 97–01–00054-S, Slip Op. 01–86 (CIT July 16, 2001), the Department of Commerce prepared the final results of redetermination. In accordance with the CIT's instructions, we reconsidered our calculation of FAG's general and administrative expenses, and we recalculated FAG's margins accordingly. As there is now a final and conclusive court decision in this action, we are amending our final results of reviews in this matter, and we will subsequently instruct the Customs Service to liquidate entries subject to these reviews.

Amendment to Final Results

Pursuant to section 516A(e) of the Tariff Act, we are now amending the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany, for the period May 1, 1993, through April 30, 1994. The revised weighted-average margins are as follows:

Company	BBs	CRBs	SPBs
Germany: FAG Kugelfischer Georg Schafer AG	12.33	12.50	2.10

Accordingly, the Department will determine and the Customs Service will assess appropriate antidumping duties on entries of the subject merchandise made by the firm covered by these reviews. Individual differences between United States price and foreign market value may vary from the percentages listed above. For the company covered by these amended results, the Department will issue appraisement instructions to the Customs Service after publication of these amended final results of reviews.

This notice is published pursuant to section 751(a) of the Tariff Act.

Dated: February 19, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–4425 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–822]

Certain Helical Spring Lock Washers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Administrative Duty Review.

SUMMARY: On July 11, 2001, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain helical spring lock washers from the People's Republic of China. We gave interested parties an opportunity to comment. Based upon our analysis of the comments and information received, we have made changes to the margin calculations presented in the final results of the review. We find that helical spring lock washers from the People's Republic of China are not being sold in the United States below normal value by the company reviewed. The final weighted-average dumping margin is listed below in the section entitled Final Results of the Review.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Sally Hastings, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3464.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department'') regulations are to 19 CFR part 351 (2000).

Background

On July 11, 2001, the Department published in the **Federal Register** the preliminary results of its administrative review of helical spring lock washers (''HSLWs'') from the People's Republic of China (''PRC'') (*Certain Helical Spring Lock Washers from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review,* 66 FR 36251 (July 11, 2001) (''*Preliminary Results*''). We received surrogate value information from the petitioner, Shakeproof Assembly Components Division of Illinois Tool Works Inc. (''petitioner''), and the respondent, Hang Zhou Spring Washer Co., Ltd. also known as Zhejiang Wanxin Group Co., Ltd. (''Hangzhou''), on July 31, 2001. The petitioner and the respondent submitted case briefs and rebuttal briefs on August 10 and 15, 2001, respectively. The Department has now completed the antidumping duty administrative review in accordance with section 751 of the Act.

Scope of Order

The products covered by this review are HSLWs of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non-heat-treated, plated or non-plated, with ends that are off-line. HSLWs are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screws or bolts; and, (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as copper.

HSLWs subject to this review are currently classifiable under subheading 7318.21.0030 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Period of Review

The period of review (''POR'') is from October 1, 1999 through September 30, 2000.

Comparisons

We calculated export price and normal value based on the same methodology used in the *Preliminary Results* with the following exceptions:

1. We used values that were more contemporaneous with the POR for steam coal, lubricating oil, nitric acid, hydrofluoric acid, caustic soda-lye, caustic soda, sodium hydroxide, chromicacid, sodium nitrate, barium carbonate, sodium cyanide, potassium chromate, methalymine, potassium aluminum sulfate, adhesive tape, packing sheet, plastic bags, cartons, steel scrap, packing strips, nails, and zinc dust

2. We used an Indonesian import value for hydrochloric acid.

3. We revised the value for inland shipping, using a different source and data more contemporaneous with the POR. We corrected errors in our calculation of shipping distances.

4. We corrected an error in the sales database.

5. For labor, we used the regression-based wage rate for the PRC, revised September, 2001, in ''Expected Wages of Selected NME Countries'' located on the Internet at *http://ia.ita.doc.gov/wages/99wages/99wages/htm.*

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding are addressed in the February 15, 2002, Issues and Decision Memorandum (''Decision Memorandum'') which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the Decision Memorandum. 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 Department. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/summary/list.htm.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of the Review

The weighted-average dumping margin for the period October 1, 1999 through September 30, 2000, is as follows:

Manufacturer/exporter	Time period	Margin (percent) (de minimis)
Hang Zhou Spring Washer Co., Ltd/Zhejiang Wanxin Group Co., Ltd	10/01/99–09/30/00	0.01

Because the duty assessment rates for Hangzhou are zero or *de minimis* (*i.e.,* less than 0.5 percent), we will instruct the Customs Service to liquidate entries made during this review period without regard to antidumping duties for subject merchandise exported by Hangzhou. All other entries of the subject merchandise during the POR will be liquidated at the antidumping rate in place at the time of entry.

Furthermore, the following deposit rates will be effective upon publication of these final results for all shipments of

HSLWs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act:

(1) For Hangzhou, which has had a separate rate in the investigation and all reviews, no deposit will be required because the company had a *de minimis* rate in this review; (2) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate, 128.63 percent, which is the All Other PRC Manufacturers, Producers and Exporters rate from the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the PRC,* 58 FR 48833 (September 20, 1993); and, (3) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit rates shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 15, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

List of Comments in the Issues and Decision Memorandum

Comment 1: Use of Import Prices to Value All Steel Wire Rod Inputs
Comment 2: Plating Operations: Factory Overhead, SG&A Expenses and Profit
Comment 3: Representativeness of Plating Factors of Production
Comment 4: Valuation of Hydrochloric Acid
Comment 5: Valuation of Inland Shipping Rate
Comment 6: Valuation of Potassium Aluminum Sulphate
Comment 7: Calculation of Factory Overhead Net of Scrap

[FR Doc. 02–4423 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–837, A–428–821]

Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan (A–588–837) and Germany (A–428–821): Notice of Final Results of Five-Year Sunset Reviews and Revocation of Antidumping Duty Orders.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of five-year sunset reviews and revocation of antidumping duty orders on large newspaper printing presses and components thereof, whether assembled or unassembled, from Japan (A–588–837) and Germany (A–428–821).

SUMMARY: On August 1, 2001, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on Large Newspaper Printing Presses (''LNPPs'') and Components Thereof, Whether Assembled or Unassembled, from Japan and Germany. One domestic interested party responded to the sunset review notice of initiation in these proceedings. However, on December 21, 2001, the domestic interested party withdrew its interest in these proceedings. Therefore, the Department is revoking the antidumping duty orders on LNPPs from Japan and Germany.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statue

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the ''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department'') regulations are to 19 CFR part 351 (2001).

Background

On September 4, 1996, the Department issued the antidumping duty orders on LNPPs from Japan (61 FR 46621) and Germany (61 FR 46623). Pursuant to section 751(c) of the Act and 19 CFR 351.218, the Department initiated sunset reviews of these orders by publishing a notice of the initiation in the **Federal Register** August 1, 2001 (66 FR 39731). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for this proceeding to inform them of the automatic initiation of sunset reviews of these orders.

On August 16, 2001, within the applicable deadline, the Department received notice of intent to participate from Goss Graphic Systems, Inc. (''Goss''), the only domestic interested party in the sunset proceedings. As such, the Department concluded that Goss provided an adequate response to participate in the sunset reviews on LNPPs from Japan and Germany. On August 31, 2001, Goss filed substantive responses with respect to LNPPs from Japan and Germany. In the sunset review on LNPPs from Japan, the Department did not receive any response from respondent interested parties; therefore, we determined to conduct an expedited sunset review. In the sunset review on LNPPs from Germany, the Department determined that domestic and respondent interested parties provided adequate response to conduct a full sunset review under section 751(c)(3)(B) of the Act, and §§ 351.218(e)(1)(i) and 351.218(e)(1)(ii). However, over the course of these reviews significant questions were raised concerning Goss' claim as to whether it was actually a domestic manufacturer of the subject merchandise. Consequently, in order to investigate this issue more fully, on November 19, 2001, the Department aligned the sunset review on LNPPs from Japan with the sunset review of the antidumping duty order on LNPPs from Germany. *See* 66 FR 58713 (November 23, 2001).[1] On December 21, 2001, Goss

[1] In this notice, the Department announced its intent to issue the preliminary results on LNPPs from Japan along with the preliminary results on LNPPs from Germany not later than February 19,

withdrew its participation in these proceedings. We interpret Goss' withdrawal of participation as a withdrawal of interest. Because Goss (the only domestic interested party in the sunset proceeding) withdrew its interest in these reviews, the Department has determined to treat this situation as if no domestic interested party responded to the notice of initiation of these sunset reviews. Therefore, we are not publishing preliminary determinations and are hereby revoking the antidumping duty orders on LNPPs from Japan and Germany.

Determination to Revoke

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the order.[2] Because the only domestic interested party withdrew its interest in both proceedings (*see* 351.218(d)(1)(i) and 351.218(e)(1)(i)(C)(1) of the *Sunset Regulations*), consistent with the provision of section 751(c)(3)(A) of the Act, we are revoking these antidumping duty orders.

Effective Date of Revocation

In accordance with sections 751(c)(3)(A) and 751(d)(2) of the Act, and 19 CFR 351.222(i)(2)(i), the Department will instruct the Customs Service to terminate the suspension of liquidation of the merchandise subject to the orders entered, or withdrawn from warehouse, on or after September 4, 2001. The instructions for entries of LNPPs from Germany will not be issued until either the conclusion of the ongoing litigation with respect to the final determination of the Department's less-than-fair value investigation of LNPPs from Germany, pursuant to which entries have been enjoined from liquidation, or the injunction has been lifted or amended. (*See Koenig & Bauer Albert* v. *United States,* Fed. Cir. Court No. 00–1387 (CIT 96–10–02298).) This injunction does not cover entries of subject merchandise from Japan. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: February 19, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–4426 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

2002, and its final results on both reviews on June 27, 2002.

[2] Although the statute requires revocation of an order within 90 days of initiating the sunset review when no party responds to the notice of initiation, in this case, Goss withdrew its participation after the 90-day period had expired.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain–On–Steel Cookware From Mexico: Initiation and Preliminary Results of Changed–Circumstances Antidumping Duty Administrative Review and Notice of Intent to Revoke the Order and to Rescind Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation and Preliminary Results of Changed–Circumstances Antidumping Duty Administrative Review and Notice of Intent to Revoke the Order and to Rescind Administrative Reviews.

SUMMARY: In response to a request from the petitioner, Columbian Home Products, LLC, that the Department of Commerce revoke the antidumping duty order on porcelain–on–steel cookware from Mexico, we are initiating a changed–circumstances administrative review and are issuing this notice of preliminary results and intent to revoke the antidumping duty order as of December 1, 1995. If these preliminary results become final, we intend to rescind the current antidumping duty administrative reviews, covering the periods December 1, 1999 through November 30, 2000, and December 1, 2000 through November 30, 2001. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Kate Johnson, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4007 and (202) 482–4929, 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 of Commerce's (''Department's'') regulations are to the regulations at 19 CFR Part 351 (April 2001).

Background

On January 30, 2002, the petitioner, Columbian Home Products, LLC (''Columbian''), requested that the Department revoke the antidumping duty order on porcelain–on–steel cookware from Mexico as of December 1, 1995, stating that it no longer has an interest in maintaining this order. Columbian is a domestic interested party and is the successor company to the petitioner in the less–than–fair–value investigation. Columbian stated that it is the only U.S. producer of porcelain–on–steel cookware, and therefore, it accounts for ''substantially all of the production of the domestic like product,'' within the meaning of section 782(h)(2) of the Act.

Scope of the Order

The products covered by this order are porcelain–on–steel cookware, including tea kettles, which do not have self–contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 7323.94.00. Kitchenware currently classifiable under HTSUS subheading 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Initiation and Preliminary Results of Changed–Circumstances Review and Intent to Revoke Order

Pursuant to section 751(d)(1) of the Act, the Department may revoke, in whole or in part, an antidumping duty order based on a review under section 751(b) of the Act (i.e., a changed–circumstances review). The Department's regulations at 19 CFR 351.216(d) require the Department to conduct a changed–circumstances review in accordance with 19 CFR 351.221 if it decides that changed circumstances sufficient to warrant a

review exist. Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that the Department may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3) permits the Department to combine the notices of initiation and preliminary results.

The petitioner is a domestic interested party as defined by section 771(9)(C) of the Act and 19 CFR 351.102(b). Columbian is the only U.S. producer of porcelain–on–steel cookware and therefore represents at least 85 percent of the domestic production of the domestic like product to which this order pertains, and thus accounts for ''substantially all'' of the production of the domestic like product. Therefore, based on the lack of interest by the domestic industry in the continued application of the antidumping duty order on porcelain–on–steel cookware from Mexico, we are initiating this changed–circumstances review. Because of the on–going and pending administrative reviews, we have determined that expedited action is warranted, and we are combining the notices of initiation and preliminary results. We have preliminarily determined that the petitioner's statement of no interest in the continuation of the order constitutes changed circumstances sufficient to warrant revocation of the order in whole. We are hereby notifying the public of our intent to revoke the antidumping duty order on porcelain–on–steel cookware from Mexico as of December 1, 1995.

If these preliminary results become final, we intend to rescind the current antidumping duty administrative reviews, covering the periods December 1, 1999 through November 30, 2000, and December 1, 2000 through November 30, 2001.

If final revocation of the order occurs, we intend to instruct the Customs Service to discontinue the suspension of liquidation and to refund any estimated antidumping duties collected for all unliquidated entries of porcelain–on–steel cookware from Mexico entered, or withdrawn from warehouse, for consumption on or after December 1, 1995. We will also instruct the Customs Service to pay interest on any refunds with respect to the subject merchandise entered, or withdrawn from warehouse, for consumption on or after December 1, 1995, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed–circumstances review.

Public Comment

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Any interested party may request a hearing within 10 days of the date of publication of this notice. Any hearing, if requested, will be held no later than 21 days after the date of publication of this notice, or the first workday thereafter. Case briefs may be submitted by interested parties not later than 7 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in the case briefs, may be filed not later than 12 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303 and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed–circumstances review, including the results of its analysis of issues raised in any written comments.

We are issuing and publishing this determination and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.222.

February 14, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–4421 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–825]

Stainless Steel Sheet and Strip in Coils from Germany; Antidumping Duty Administrative Review; Time Limits

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for the preliminary results of the 2000–2001 administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Germany. This review covers one manufacturer/exporter of the subject merchandise to the United States and the period July 1, 2000 through June 30, 2001.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Tran at (202) 482–1121 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 NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On August 20, 2001, in response to requests from the respondent and petitioners, we published a notice of initiation of this administrative review in the Federal Register. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 66 FR 43570. Pursuant to the time limits for administrative reviews set forth in section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the current deadlines are April 2, 2002 for the preliminary results and July 31, 2002 for the final results. It is not practicable to complete this review within the normal statutory time limit due to a number of significant case issues, such as major inputs purchased from affiliated and unaffiliated suppliers and the use of downstream sales. Therefore, the Department is extending the time limits for completion of the preliminary results until July 31, 2002 in accordance with section 751(a)(3)(A) of the Act. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Act.

February 15, 2002

Joseph A. Spetrini

Deputy Assistant Secretary for Import Administration, Group III

[FR Doc. 02–4422 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–437–804, A–471–806]

Notice of Postponement of Preliminary Determinations of Antidumping Investigations: Sulfanilic Acid from Hungary and Portugal

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder (Hungary) at (202) 482–0189 or Anthony Grasso (Portugal) at (202) 482–3853, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

APPLICABLE STATUTE AND REGULATIONS:

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

POSTPONEMENT OF PRELIMINARY DETERMINATIONS:

On October 26, 2001, the Department published the initiation of the antidumping duty investigations of imports of sulfanilic acid from Hungary and Portugal. See Notice of Initiation of Antidumping Duty Investigations: Sulfanilic Acid from Hungary and Portugal, 66 FR 54214, 54218 (October 26, 2001). The notice of initiation stated that we would make our preliminary determinations for these antidumping duty investigations no later than 140 days after the date of issuance of the initiation (i.e., March 7, 2002).

On February 14, 2002, the Nation Ford Chemical Company (''the petitioner'') made a timely request pursuant to 19 CFR 351.205(e) for a 30–day postponement of the preliminary determinations, or until April 8, 2002. The petitioner requested postponement of the preliminary determinations because it believes that the Department will need additional time than allotted under the current schedule to collect from the respondents the information necessary to make accurate preliminary determinations. Additionally, the petitioner made this request for both Hungary and Portugal in order to keep both investigations on identical schedules.

For the reasons identified by the petitioner, and because there are no compelling reasons to deny the request, we are postponing the preliminary determinations under section 733(c)(1) of the Act. We will make our preliminary determinations no later than April 8, 2002.

This notice is published pursuant to sections 733(f) and 777(i) of the Act.

February 15, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–4424 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022002A]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings.

DATES: The meetings will be held on March 11-15, 2002.

ADDRESSES: These meetings will be held at the Adam's Mark Hotel, 64 South Water Street, Mobile, AL 36602; telephone: 251–438–4000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228-2815.

SUPPLEMENTARY INFORMATION:

Council

March 13

8:30 a.m.--Convene.

8:45 a.m.-- 12 noon--Receive public testimony on Draft Shrimp Amendment 10/Environmental Assessment/ Regulatory Impact Review (EA/RIR), the Red Grouper Amendment, total allowable catch (TAC) recommendations for gag grouper, a greater amberjack rebuilding program, and a coastal migratory pelagic (CMP) status determination criteria. Although the Council will hear public testimony on the Red Grouper Amendment, final action will not be taken until the July 8-12, 2002 Council meeting in Sarasota, FL.

1:30 p.m.- 5:30 p.m.--Continue public testimony if necessary.

March 14

8:30 a.m.-- 9:30 a.m.--Receive a report of the Shrimp Management Committee.

9:30 a.m.- 5:00 p.m.--Receive the report of the Reef Fish Management Committee.

March 15

8:30 a.m. - 9 a.m.--Receive a report of the Personnel Committee.

9 a.m. - 9:30 a.m--Receive a report of the Mackerel Management Committee.

9:30 a.m. - 9:45 a.m.--Receive a report of the International Commission for the Conservation of Atlantic Tunas Advisory Committee.

9:45 a.m. - 10 a.m.--Receive a report of the South Atlantic Fishery Management Council Liaison.

10 a.m. - 10:15 a.m.--Receive Enforcement Reports.

10:15 a.m. - 10:30 a.m.--Receive the NMFS Regional Administrator's Report.

10:30 a.m. - 11 a.m.--Receive Director's Reports.

11 a.m. - 11:15 a.m.--Other Business.

March 11

10:30 a.m. - 12 noon--Convene the Mackerel Management Committee to develop recommendations for mackerel and cobia status determination criteria. The full Council will consider these recommendations on Friday morning.

1:30 p.m. - 4:30 p.m.--Convene the Shrimp Management Committee to hear a staff presentation on a revised Draft Shrimp Amendment 10/EA/RIR and develop recommendations for final action by the full Council on Thursday morning.

4:30 p.m. - 5:30 p.m.--(CLOSED SESSION) Briefing on litigation.

March 12

8:30 a.m. - 12 noon--Convene the Reef Fish Management Committee to review a draft Red Grouper Amendment containing alternatives for rebuilding of the red grouper stock. The committee will also discuss TAC recommendations for gag, and a greater amberjack rebuilding program. The full Council will consider these recommendations on Thursday.

1:30 p.m. - 5 p.m.--Continue the Reef Fish Management Committee.

Although non-emergency issues not contained in the agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens

Fishery Conservation and Management Act (MSFCMA), those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the MSFCMA, provided the public has been notified of the Council's intent to take final action to address the emergency.

A copy of the Committee schedule and agenda can be obtained by calling (813) 228–2815.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by March 4, 2002.

Dated: February 20, 2002.

William D. Chappell,

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

[FR Doc. 02–4450 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021402A]

Endangered Species; Permits

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

ACTION: Receipt of request to modify research Permit 1189.

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 a request to modify Permit (1189) from Dr. James Kirk, of USAE Waterways Experiment Station.

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 27, 2002.

ADDRESSES: Written comments on the modification request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the modification request. Comments will not be accepted if submitted via e-mail or the Internet. The application 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:

Fish

Endangered Shortnose Sturgeon (*Acipenser brevirostrum*)

Modification Requests Received

The applicant requests a modification to Permit 1189. Permit 1189 authorizes the capture of up to 300 juvenile shortnose sturgeon by gill net and trot line. Up to 20 of these may be surgically implanted with radio/sonic tags. Modification #3 would also allow the use of trawling for the purpose of capturing shortnose sturgeon less than 8 years old.

Dated: February 19, 2002.

Ann Terbush,

Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–4448 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021402E]

Marine Mammals; File Application No. 1004–1656

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

ACTION: Notice of reopening of comment period.

SUMMARY: The National Marine Fisheries Service is reopening the comment period for the application submitted by Funtime, Inc. d/b/a Six Flags Worlds of Adventure, 1060 North Aurora Road, Aurora, OH 44202, to import two killer whales (*Orcinus orca*) for the purposes of public display.

DATES: Written or telefaxed comments must be received on or before March 27, 2002.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Glouster, MA, 01930–2298 (978/281–9116).

Written comments or requests should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910.

Comments may also be submitted by facsimile at (301) 713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan,(301/713–2289).

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

A notice of receipt of this application was published on November 30, 2001 (66 FR 59781). The comment period closed on December 31, 2001. Based on substantive comments received during the initial comment period, NMFS requested additional information from the applicant. On February 12, 2002, the applicant submitted additional information in support of their application. This action, reopening of the comment period, will allow all interested parties to review the new information and provide NMFS with any additional comments regarding this application. In reopening this comment period NMFS finds that a public hearing is not warranted because NMFS has determined that the issues raised by the comments can be clarified in writing. However, NMFS is providing through this action an opportunity for additional written comments or requests.

Dated: February 19, 2002.

Ann D. Terbush,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–4449 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Headquarters Air Force Personnel Center.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Community College of the Air force announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Considerations will be given to all comments received by April 26, 2002.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Plans and Research Division, Community College of the Air Force, CCAF/DFI, 130 W. Maxwell Blvd., Maxwell AFB, AL 36112–6613.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to the above address, or call the Community College of the Air Force Institutional Effectiveness Division at (334) 953–2703.

Title, Associated Form, and OMB Number: Community College of the Air Force Alumni Survey, OMB Number 0701–0136.

Needs and Uses: The information collection requirement is necessary to determine how effectively the institution is meeting its mission and also identify areas needing improvement. Survey results will provide data on the usefulness and acceptance of the Community College of the Air Force degree in the civilian sector. Documenting the institution's effectiveness is also required to maintain the Community College of the Air Force's regional accreditation.

Affected Public: Separated and retired Community College of the Air Force graduates.

Annual Burden Hours: 133.

Number of Respondents: 400.

Responses per Respondent: 1.

Average Burden Per Response: 20 minutes.

Frequency: Biennial.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents will be separated and retired Community College of the Air Force graduates. Approximately 2,000 Community College of the Air Force graduates will be surveyed biennially to determine the effectiveness of the institution and the usefulness of the Community College of the Air Force degree in the civilian sector. A notification letter will be mailed directly to respondents' home addresses inviting them to complete the Alumni Survey on the Community College of the Air Force's Internet homepage. The survey will take about 20 minutes to complete, and we expect to have about 400 responses. Survey results will be compiled and evaluated at the Community College of the Air Force Administrative Center at Maxwell Air Force Base, Alabama. While results will be used primarily in-house to make program improvements, findings may be publicized in the Air Force and civilian education communities.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–4361 Filed 2–22–02; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Community College of the Air Force

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting to review and discuss academic policies and issues relative to the operation of the college. Agenda items include a review of the operations of the CCAF and an update on the activities of the CCAF Policy Council.

Members of the public who wish to make oral or written statements at the meeting should contact Second Lieutenant Richard W. Randolph, Designated Federal Officer for the Board, at the address below no later than 4 p.m. on March 19, 2002. Please mail or electronically mail all requests. Telephone requests will not be honored. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of the presentation materials must be given to Second Lieutenant Richard Randolph no later than three days prior to the time of the board meeting for distribution. Visual aids must be submitted to Second Lieutenant Richard Randolph on a 3 ½″ computer disc in Microsoft PowerPoint format no later than 4 p.m. on March 19, 2002 to allow sufficient time for virus scanning and formatting of the slides.

DATES: April 9, 2002.

ADDRESSES: Commanders Conference Center [Building 905], First Floor Conference Room, Randolph Air Force Base, San Antonio, Texas 78150–4324.

FOR FURTHER INFORMATION CONTACT: Second Lieutenant Richard Randolph, (334) 953–7322, Community College of

the Air Force, 130 West Maxwell Boulevard, Maxwell Air Force Base, Alabama, 36112–6613, or through electronic mail at *Richard.Randolph@maxwell.af.mil.*

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–4362 Filed 2–22–02; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Corps of Engineer, Department of the Army

Intent To Prepare A Draft Tier II Environment Impact Statement (DEIS) for the Savannah Harbor Expansion Project, Savannah, Georgia

AGENCY: US Army Corps of Engineers, DOD.

ACTION: Notice of Intent—Correction.

SUMMARY OF THE ACTION: The U.S. Army Corps of Engineers published a Notice Of Intent to Prepare a Draft Tier II Environment Impact Statement (DEIS) for the Savannah Harbor Expansion Project, Savannah, Georgia in the **Federal Register** on January 22, 2002. A portion of the address contained in contact information was incorrect. The correct information is as follows: Questions or written comments about the proposed action and DEIS should be provided by March 7, 2002 to: Mr. William Bailey at 912–652–5781, e-mail address *shep@sas02.usace.army.mil*, or at US Army Corps of Engineers, Savannah District, ATTN: PD–E, Post Office Box 889, Savannah, Georgia 31402.

Dated: February 19, 2002.

David V. Schmidt,

Chief, Planning Division.

[FR Doc. 02–4365 Filed 2–22–02; 8:45 am]

BILLING CODE 3710–HP–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by March 18, 2002. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 26, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: February 19, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Application for State Grants for Reading First.

Abstract: This application will be used to award grants to State educational agencies to improve K–3 reading instruction and student achievement through the application of scientifically based reading research, and the proven instructional and assessment tools consistent with this research.

Additional Information: The Department of Education is requesting emergency processing for the Reading First Application by March 18 due to an unanticipated event and possibly causing public harm. The late passage and signing of this legislation leaves the Department with no choice but to request an emergency collection if it is to meet the goal of awarding grant funds to states with approved applications on July 1. If normal processing were to be followed, States would not have sufficient time to prepare high quality applications and make revisions as necessary before July 1, 2002, and funds would not be received in time.

Frequency: Other: Grants awarded for a period of six years; SEAs not required to reapply until that period ends.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 57; Burden Hours: 3,306.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, *vivian.reese@ed.gov*, or should be electronically mailed to the internet address *OCIO_RIMG@ed.gov*, or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at (540) 776–7742 or via her internet address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–4351 Filed 2–22–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory (NETL), Department of Energy (DOE).

ACTION: Notice of availability of a financial assistance solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE-PS26–02NT41450 entitled Mining Industry of the Future/ mineral Processing Technologies. The U.S. Department of Energy (DOE) Office of Industrial Technologies (OIT) in collaboration with the National Mining Association (NMA) is seeking industry-led proposals for cost-shared research and development of technologies which will reduce energy consumption, enhance economic competitiveness and reduce environmental impacts of the domestic mining industry. The research is to address research priorities identified by the Mining Industry of the Future Mineral Processing Technology Roadmap (the Roadmap can be accessed on the Internet at: *http://www.oit.doe.gov/mining/pdfs/mptroadmap.pdf*). In particular, the roadmap identifies three (3) areas of mineral processing technology where the most impact and the greatest progress towards the mining vision goals can be expected: (1) *Mineral Preparation*—typical processes include communition, makedown, classification, and, to some extent, blasting and drilling; (2) *Physical Separations*—typical processes include flotation, dewatering, thickening or settling, filtering, drying, flocculation, screening, magnetic separation, classification and washing; and (3) *Chemical Separations*—typical processes include pelletizing or briquetting, smelting, refining, leaching, solvent extraction, bioleaching and electrowinning.

DATES: The solicitation will be available on the ''Industry Interactive Procurement System'' (IIPS) Web page at *http://e-center.doe.gov* on or about February 27, 2002. It is further anticipated that applications will be due approximately ninety (90) days from the date the solicitation is released. Applicants can download the solicitation from the IIPS Internet address above or obtain access through DOE/NETL's Web site at *http://www.netl.doe.gov/business*. Paper copies are not available.

FOR FURTHER INFORMATION CONTACT: Donna Jaskolka, Contract Specialist, MS 921–107, U.S. Department of Energy, National Energy Technology Laboratory, Acquisition and Assistance Division (BL–10), P.O. Box 10940, Pittsburgh, PA 15236–0940, E-mail Address: *jaskolka@netl.doe.gov*

SUPPLEMENTARY INFORMATION: The DOE Office of Industrial Technologies does not fund product development R&D. Applications submitted in response to this solicitation will only be funded if the proposed research and development addresses improving the energy efficiency of mineral processing technologies. Applications for literature reviews *only* will not be considered. Additionally, applications offering emissions or waste disposal, remediation, or treatment as a primary focus are not eligible for funding under this solicitation. This limitation does not include applications that target materials recycling or by-product utilization as their primary focus.

The U. S. Congress looks to the Department of Energy (DOE) to work toward improving the energy efficiency of America's most energy-intensive industries with special interest on industrial processing. DOE, through its Office of Industrial Technologies (OIT), supports industries in their efforts to increase energy efficiency, reduce waste, and increase productivity. The goal of OIT is to accelerate the development and use of advanced, energy efficient, renewable, and pollution prevention technologies that benefit industry, the environment, and U.S. energy security. OIT's core program is the Industries of the Future (IOF) Program that focuses on basic materials and processing industries such as the Mining Industry. In June 1998, the National Mining Association (NMA) and the Secretary of Energy signed a Compact pledging to work together through research and development partnerships. The objective of Solicitation No. DE–PS26–02NT41450 is another step in continuing to support this pledge by funding research and development projects which address research needs described in the Mineral Processing Technology Roadmap. The three key industry-identified areas, as presented in the Mineral Processing Technology Roadmap and which form the bases for the areas of interest under this solicitation, are: Mineral preparation, physical separations, and chemical separations. Additional background information is provided in the National Mining Association's Report, ''The Future Begins with Mining, A Vision of the Mining Industry of the Future (Sept. 1998)'', which can be accessed at: *http://www.oit.doe.gov/mining/pdfs/vision.pdf*. No fiscal year 2002 (FY02) funds are available for this solicitation; selection and negotiation of successful offers leading to award of cost-shared financial assistance cooperative agreements is subject to availability of funding in FY03 and beyond. An estimated $3.9 million in DOE funds is planned for this initiative as follows: approximately $1.3 million in FY03; $1.4 million in FY04; and $1.2 million in FY05. Selection of successful offers are expected to be made on or before January 1, 2003, subject to availability of funding, with completion of negotiations and issuance of awards anticipated to occur within a reasonable timeframe thereafter. Multiple (three to ten) awards are contemplated.

A minimum fifty percent (50%) cost-share is required, i.e., if the total proposed project cost is estimated as $2 million, the government's share would be no more than $1 million and the recipient's share would be no less than $1 million.

Any for-profit or non-profit organization, university or other institution of higher education, or non-federal agency or entity is eligible to apply, unless otherwise restricted by the Simpson-Craig amendment. Applicants for financial assistance under this solicitation are subject to the eligibility requirements of section 2306 of the Energy Policy Act of 1992 (EPAct), Foreign Company Participation. EPAct provides further guidelines for companies who apply for financial assistance herein where the company's participation is to be in the economic interest of the U.S. and the company must either be U.S.-owned or incorporated in the U.S. with its parent company incorporated in a country that provides similar protections and privileges under U.S. law. Applications submitted by or on behalf of (1) Another Federal agency, a Federally-funded Research and Development Center (FFRDC) or (3) a DOE Management and Operating (M&O) contractor will not be eligible for award under this solicitation. However, these organizations may be proposed as team members subject to the guidelines provided in the solicitation. Applicants must include at least two (2) mining companies as members of the multi-disciplinary team. Multi-partner collaborations are encouraged.

Once released, the solicitation will be available for downloading from the Industry Interactive Procurement System (IIPS) Internet page (*http://e-center.doe.gov*). You must register with IIPS, to enable you to submit an application. If you need technical assistance in registering, or for any other

IIPS function, call the IIPS Help Desk at (800) 683–0751 or E-mail the Help Desk personnel at *IIPS_HelpDesk@e-center.doe.gov* (do not contact the Contract Specialist). The solicitation will only be made available through IIPS, no hard (paper) copies of the solicitation and related documents will be distributed.

Prospective applicants who would like to be notified as soon as the solicitation is available should subscribe to the Business Alert Mailing List at *http://www.netl.doe.gov/business*. Once you subscribe, you will receive an announcement by E-mail that the solicitation has been released to the public. Telephone requests, written requests, e-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms referenced in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA, on February 14, 2002.

Dale A. Siciliano,

Deputy Director, Acquisition and Assistance Division.

[FR Doc. 02–4393 Filed 2–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency informaiton collection activities: proposed collection; comment request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The EIA is soliciting comments on the proposed revision and three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 of the surveys in the Natural Gas Data Collection Program Package. The surveys covered by this request for comment include Form EIA–176, ''Annual Report of Natural and Supplemental Gas Supply and Disposition;'' EIA–191, ''Monthly Underground Gas Storage Report,'' EIA–857, ''Monthly Report of Natural Gas Purchases and Deliveries to Consumers;'' EIA-895, ''Monthly Quantity and Value of Natural Gas Production Report;'' EIA–910, ''Monthly Natural Gas Marketer Survey;'' and EIA–912, ''Weekly Underground Natural Gas Storage Report.''

DATES: Comments must be filed by April 26, 2002. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Sylvia Norris, Natural Gas Division, Office of Oil and Gas, Energy Information Administration. To ensure receipt of the comments by the due date, submission by fax (202–586–4420) or e-mail (*sylvia.norris@eia.doe.gov*) is recommended. The mailing address is Sylvia Norris, Energy Information Administration, U.S. Department of Energy, P.O. Box 8279, Silver Spring, MD 20907. Also, Ms. Norris may be contacted by telephone at 202–586–6106.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions should be directed to Ms. Norris at the address listed above.

Also, the draft forms and instructions are available on the EIA Web site at http://www.eia.doe.gov/oil_gas/fwd/proposed.html.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer-term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under section 3507(h)(1) of the Paperwork Reduction Act of 1995.

The natural gas surveys included in the Natural Gas Data Collection Program Package collect information on natural gas production, underground storage, transmission, distribution, consumption by sector, and wellhead and consumer prices. This information is used to support public policy analyses of the natural gas industry and is posted to the EIA Web site (*www.eia.doe.gov*) in various EIA products, including the *Natural Gas Weekly Update, Natural Gas Monthly, Natural Gas Annual, Monthly Energy Review, and Annual Energy Review.* Respondents to natural gas surveys include State agencies, underground storage operators, transporters, marketers, and distributors. The forms are discussed in detail below.

EIA–176, ''Annual Report of Natural and Supplemental Gas Supply and Disposition''

The Form EIA–176 provides EIA with the major elements of information required in conjunction with data collected in other EIA surveys to develop annual gas supply and disposition balances and relevant cost, price, and related information at the State level.

The information collected on the Form EIA–176 is needed and used for the following purposes:

(1) To develop and make available to Congress, the States, and the public an accurate quantified overview of the supply of natural and supplemental gas available to each of the States from all sources both internal and external to the State, and the manner in which such supply was utilized or otherwise disposed of,

(2) To determine the quantity of natural and supplemental gas consumed within each of the States by market sector, the average sales prices for such gas, and the changes in consumption and price patterns over time, and

(3) For dissemination in various EIA data products including the *Natural Gas Annual (NGA), Natural Gas Monthly (NGM), Annual Energy Review (AER), Annual Energy Outlook (AEO), Short-Term Energy Outlook (STEO), Winter Fuels Report*, and *Monthly Energy Review (MER)*, which are widely used by both public and private organizations and individuals.

EIA–191, ''Monthly Underground Gas Storage Report''

Form EIA–191 requests monthly data on the location, capacity, and operations of all active underground natural gas storage fields. Storage data are a critical

link in understanding the deliverability of the natural gas system of the United States and overall system operations.

The information collected on Form EIA–191 will be used in the following ways:

(1) To provide State-level data on underground natural gas storage with respect to injections, withdrawals, inventories, type of storage facility, location, and capacity. These data will be made available to EIA's *NGM, NGA, MER, and AER.* Monthly data collection also provides reliable baseline data on storage operations necessary for analyses, modeling, and comparison with normal industry operations in cases of severe weather, natural disaster, or other extreme circumstances,

(2) To provide data on underground natural gas storage inventories for EIA's *AEO* and *STEO*, and

(3) To provide data on all aspects of underground natural gas storage to enable EIA and other elements of DOE to identify and assess the supplies of gas in storage by geographic location.

EIA–857, ''Monthly Report of Natural Gas Purchases and Deliveries to Consumers''

Monthly State-level data collected on the Form EIA–857 consist of average price of natural gas purchased by local distribution companies at their city gates, consumption of natural gas by sector, and average sales price by sector. These data are necessary to provide timely information needed to measure the combined impact of government, industry, and consumer actions; geographic location; climatic conditions; and other factors on the natural gas industry and natural gas consumers.

The data collected on the Form EIA–857 are used to develop information for publication in EIA's *STEO, NGM, Winter Fuels Report,* and *MER,* and to make the data available to Congress, State governments, industry, and the public.

EIA–895, ''Monthly Quantity and Value of Natural Gas Production Report''

Form EIA–895 collects monthly information from the appropriate State agencies concerning natural gas production. It provides details on gross withdrawals from gas and oil wells and from coalbed methane wells, volumes vented and flared, volumes of nonhydrocarbon gases removed, gas used as fuel on leases, and the amount of natural gas available for market. These data are routinely collected by the States for taxation, conservation, or statistical purposes. The aggregate data are published in the *NGM, NGA, MER, Winter Fuels Report,* and *AER.*

EIA–910, ''Monthly Natural Gas Marketer Survey''

Form EIA–910 collects monthly information for developing accurate estimates of State-level prices paid by residential and commercial consumers of natural gas. Data from the EIA–910 are combined with data from other EIA natural gas surveys to produce more complete and accurate price estimates than are currently available from data based on the EIA–857. The data are incorporated into EIA's monthly publications, used by modelers and analysts, and used to answer questions from policymakers, Congress, and the general public.

EIA–912, ''Weekly Underground Natural Gas Storage Report''

EIA has developed a survey instrument and report format to provide a weekly data series on underground storage of natural gas similar to that currently published by the American Gas Association. AGA has announced that it will discontinue its data collection by May 1, 2002. The EIA–912 data collection responds to requests to provide weekly measures of natural gas underground storage operations. EIA has received emergency clearance for the operation of the new series and will release data from the survey on May 9, 2002. However, EIA must obtain a standard (3-year) clearance for the survey and will include a request for a standard (non-emergency) clearance in its Natural Gas Data Collection Program Package to be sent to OMB for approval in September 2002.

EIA will use the data to prepare analytical products assessing storage operations in the three AGA regions and their impact on supplies available for the winter heating season and in more detailed analyses correlating demand, heating-degree-days, and prior inventory levels. Such correlations will help EIA to understand the impact of storage operations on natural gas supply and demand.

II. Current Actions

EIA will be requesting a three-year extension of the collection authority for each of the above-referenced surveys. In addition, EIA proposes the changes outlined below that affect the EIA–176, EIA–191, EIA–857, and EIA–895. The request for extension of collection authority will include two surveys, Forms EIA–910 and EIA–912 cited above, which received approvals for implementation in separate clearance requests to OMB.

Form EIA–176, ''Annual Report of Natural and Supplemental Gas Supply and Disposition''

EIA is proposing significant revisions to the Form EIA–176. Those revisions included elimination of the ''Company Activities'' and ''Continuations'' sections of the Form. Numerous line items have been eliminated or combined to simplify reporting requirements and reduce respondent burden. One new reporting item has been added. The line item will collect volume of liquefied natural gas (LNG) in inventory as of December 31 of the report year. The Form has also been extensively reformatted and the instructions have been simplified and reviewed for increased clarity.

Form EIA–191, ''Monthly Underground Gas Storage Report''

The Form EIA–191 has been reformatted and several data elements have been eliminated in order to reduce respondent burden. The instructions have been reviewed and edited to provide greater clarity and simplicity.

Form EIA–857, ''Monthly Report of Natural Gas Purchases and Deliveries to Consumers''

No significant changes are proposed for the Form EIA–857, although EIA did add items on total gas deliveries for reporting in 2002, and is interested in receiving comments about that revision. The instructions have been redrafted to provide simplicity and clarity.

Form EIA–895, ''Monthly Quantity and Value of Natural Gas Production Report''

EIA is adding the word ''Production'' to the survey title for clarity. The proposed Form EIA–895 will include an additional category for reporting monthly production of natural gas from coalbed wells.

Form EIA–910, ''Monthly Natural Gas Marketer Survey''

EIA is requesting extended clearance of the currently approved EIA–910 in order to align the expiration dates for all forms in the Natural Gas Data Collection Program Package. No changes are proposed for either the survey form or instructions. EIA is requesting comments on whether the sample population (currently five States) covered by the EIA–910 should be expanded.

Form EIA–912, ''Weekly Underground Natural Gas Storage Report''

The EIA–912 was recently approved to operate for six months under an emergency clearance under section

3507(j)(1) of the Paperwork Reduction Act of 1995. EIA will request further clearance to conduct the survey until the end of 2002. In this collection request, EIA will ask for approval to conduct the survey for three years beginning January 2003. The emergency clearances and continued approval are intended to continue the weekly data series (produced by the American Gas Association until May 2002) without interruption. Including the EIA–912 in the Fall 2002 clearance proposal will keep all Forms in the Natural Gas Data Collection Program Package on the same schedule. EIA is also requesting comments on the timing of dissemination of the information collected on Form EIA–912. Copies of the draft forms and instructions are available on the EIA Web site *http://www.eia.doe.gov/oil__gas/fwd/proposed.html.*

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments. Please indicate to which form(s) your comments apply.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

B. Can the information be submitted by the due date?

C. Public reporting burden for the surveys included in the Natural Gas Data Collection Program Package is shown below as an average hour(s) per response. The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate is this estimate for the proposed forms?

(1) Form EIA–176, ''Annual Report of Natural and Supplemental Gas Supply and Disposition''; 12 hours per response.

(2) Form EIA–191, ''Monthly Underground Gas Storage Report''; 3.6 hours per response.

(3) Form EIA–857, ''Monthly Report of Natural Gas Purchases and Deliveries to Consumers''; 3.5 hours per response.

(4) Form EIA–895, ''Monthly Quantity and Value of Natural Gas Production Report''; .5 hour per response.

(5) Form EIA–910, ''Monthly Natural Gas Marketer Survey''; 2 hours per response.

(6) Form EIA–912, ''Weekly Underground Natural Gas Storage Report''; .5 hour per response.

D. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

E. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

F. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information to be Collected

A. Is the information useful at the levels of detail to be collected?

B. For what purpose(s) would the information be used? Be specific.

C. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Authority: Sec. 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, February 19, 2002.

Jay Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–4392 Filed 2–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–86–000, et al.]

LG&E Trust No. 2001–A, et al.; Electric Rate and Corporate Regulation Filings

February 14, 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. LG&E Trust No. 2001–A

[Docket No. EG02–86–000]

Take notice that on February 5, 2002, LG&E Trust No. 2001–A (Applicant) 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.

Pursuant to a synthetic lease arrangement, Applicant states that it holds legal title to two 152 MW (summer rating) combustion turbine electric generating units in Trimble County, Kentucky. LG&E Capital Trimble County LLC is the beneficial owner of (and will operate) the units upon their completion, which is expected in March 2002. All capacity and energy from the plant will be sold exclusively at wholesale.

Comment Date: March 7, 2002.

2. Covanta Energy India (Samalpatti) Limited

[Docket No. EG02–87–000]

Take notice that on February 5, 2002, Covanta Energy India (Samalpatti) Limited (Covanta Samalpatti) 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.

Covanta Samalpatti states that it indirectly owns an interest in a 106 MW heavy oil driven facility (Facility) in the State of Tamil Nadu, India. The energy produced by the Facility is sold at wholesale under a long-term power purchase agreement to the Tamil Nadu Electricity Board, a state-owned entity, whose performance under that agreement is guaranteed by the Government of the State of Tamil Nadu (a political subdivision of the country of India). Covanta Samalpatti does not anticipate that retail sales will be made from the Facility.

Comment Date: March 7, 2002.

3. Covanta Energy India (Madurai) Limited

[Docket No. EG02–88–000]

Take notice that on February 5, 2002, Covanta Energy India (Madurai) Limited (Covanta Madurai) 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.

Covanta Madurai states that it indirectly owns an interest in a 105 MW heavy oil driven facility (Facility) located in the State of Tamil Nadu, India. The energy produced by the Facility is sold at wholesale under a long-term power purchase agreement to the Tamil Nadu Electricity Board, a state-owned entity, whose performance under that agreement is guaranteed by the Government of the State of Tamil Nadu (a political subdivision of the country of India). Covanta Madurai does not anticipate that retail sales will be made from the Facility.

Comment Date: March 7, 2002.

4. West Generating Company, LLC

[Docket No. EG02–89–000]

Take notice that on February 8, 2002, West Generating Company, LLC, 410 South Wilmington Street, Raleigh, NC 27602, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations. The applicant is a limited liability company that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant proposes to own and operate a gas-fired combustion turbine to be located in the Southeastern United States. The applicant seeks a determination of its exempt wholesale generator status. All electric energy sold by the applicant will be sold exclusively at wholesale.

Comment Date: March 7, 2002.

4a. Tenaska Virginia Partners, L.P.

[Docket No. EG02–90–000]

Take notice that on February 12, 2002, Tenaska Virginia Partners, L.P., 1044 North 115th Street, Suite 400, Omaha, Nebraska 68154 (Tenaska Virginia), 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.

Tenaska Virginia, a Delaware limited partnership, states that it will construct, own, and operate a natural gas fired combined-cycle fuel conversion facility (the Facility) to be constructed and located near Palmyra, Virginia, in Fluvanna County. The Facility will consist of three ''F'' Class combustion turbine-generators and one steam turbine-generator, and will use natural gas as the primary fuel and may use fuel oil as backup fuel for the combustion turbines. The Facility will also include natural gas receipt facilities and a switchyard, and may include fuel oil storage facilities and fuel oil unloading facilities. The nominal net electric output of the facility will be 885 MW when operating at summer conditions. The Facility will include related transmission interconnection components necessary to interconnect the Facility with Virginia Electric and Power Company. The Facility will be used exclusively for the generation of electric energy to be delivered to an unaffiliated third-party customer.

Comment Date: March 7, 2002.

5. New York Independent System Operator, Inc.

[Docket No. ER01–2536–003]

Take notice that on February 11, 2002, New York Independent System Operator, Inc. (NYISO) submitted rates for mitigated in-city generators for the 24-month period of September 1999 to August 2001 and for the 36-month period of September 1998 to August 2001. Our January 18, 2002 letter explained that the rates provided reflected the fact that the NYISO did not have data available for all mitigated in-city generators for the period September 1999 to December 1999.

Comment Date: March 4, 2002.

6. Bluegrass Generation Company, L.L.C., Cabrillo Power I LLC, Cabrillo Power II LLC, Calcasieu Power, LLC, Dynegy Danskammer, L.L.C., Dynegy Midwest Generation, Inc., Dynegy Power Marketing, Inc., Dynegy Power Services, Inc., Dynegy Roseton, L.L.C., El Segundo Power, L.L.C., Foothills Generating, L.L.C., Heard County Power, L.L.C., Illinova Energy Partners, Inc., Long Beach Generation LLC, Nicor Energy, L.L.C., Renaissance Power, L.L.C., Riverside Generating Company, L.L.C., Rockingham Power, L.L.C., Rocky Road Power, L.L.C., Rolling Hills Generating, L.L.C.

[Docket Nos. ER02–506–002, ER99–1115–005, ER99–1116–005, ER00–1049–003, ER01–140–002, ER00–1895–002, ER99–4160–003, ER94–1612–026, ER01–141–002, ER98–1127–005, ER02–554–001, ER01–943–002, ER94–1475–021, ER98–1796–004, ER01–1169–002, ER01–3109–002, ER01–1044–002, ER99–1567–002, ER99–2157–002, ER02–553–001]

Take notice that on February 8, 2002, the subsidiaries of Dynegy Inc. that have been granted blanket market-based rate authority to sell energy and capacity pursuant to Section 205 of the Federal Power Act submitted an updated market power study.

Comment Date: March 1, 2002.

7. Virginia Electric and Power Company

[Docket No. ER02–511–001]

Take notice that on February 11, 2002, Virginia Electric and Power Company, doing business as Dominion Virginia Power, tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Generator Interconnection and Operating Agreement (Interconnection Agreement) with Southeastern Public Service Authority of Virginia (SPSA) that complies with the Commission's January 30, 2002 Order in this docket.

Dominion Virginia Power respectfully requests that the Commission accept this filing to make the Interconnection Agreement effective as of December 11, 2001, the same date the Commission originally made the Interconnection Agreement effective in its January 30 Order. Copies of the filing were served upon SPSA and the Virginia State Corporation Commission.

Comment Date: March 4, 2002.

8. Entergy Services, Inc.

[Docket No. ER02–324–002]

Take notice that on February 11, 2002, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing with the Federal Energy Regulatory Commission (Commission), a compliance Interconnection and

Operating Agreement with Amelia Energy Center, LP, in response to the Commission's January 11, 2002, order in Entergy Gulf States, Inc., 98 FERC ¶ 61,014 (2002).

Comment Date: March 4, 2002.

9. The Montana Power Company

[Docket No. ER02–321–000]

Take notice that on February 11, 2002, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission in compliance with the letter order dated January 11, 2002 in Docket No. ER02–321–000, Montana Power Company Rate Schedule FERC No. 175 paginated and designated as required by Order No. 614.

A copy of the filing was served upon Bonneville Power Administration.

Comment Date: March 4, 2002.

10. Reliant Energy Desert Basin, LLC

[Docket No. ER02–310–001]

Take notice that on February 11, 2002, pursuant to the letter order issued in the captioned docket on January 11, 2002, Reliant Energy Desert Basin, LLC (RE Desert Basin) submitted to the Federal Energy Regulatory Commission a revised filing of an umbrella service agreement under RE Desert Basin's FERC Electric Tariff, Original Volume No. 1, with the service agreement properly designated as required by Order No. 614.

Comment Date: March 4, 2002.

11. PJM Interconnection, L.L.C.

[Docket No. ER01–1115–002]

Take notice that on February 8, 2002, PJM Interconnection, L.L.C. (PJM) submitted a withdrawal of its Notice of Cancellation and Amended Notice of Cancellation filed in this docket on January 30, 2001 and March 5, 2001, respectively, to cancel the Interconnection Agreement between the PJM Group and the NYPP Group, designated as PJM Group Rate Schedule FERC No. 5 and NYPP Group Rate Schedule FERC No. 3 (Interconnection Agreement). PJM is not withdrawing the Unscheduled Transmission Services Agreement between PJM and the New York Independent System Operator, Inc. filed in this docket and reiterates its request for a January 1, 2001 effective date.

Copies of the filing have been served on all parties on the official service list in Docket Number ER01–1115–000.

Comment Date: March 1, 2002.

12. RockGen Energy, LLC

[Docket No. ER99–970–002]

Take notice that on February 11, 2002, RockGen Energy, LLC submitted for filing its triennial market analysis update in compliance with the Commission order issued in this docket on February 11, 1999.

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. 02–4347 Filed 2–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–998–000, et al.]

MidAmerican Energy Company, et al.; Electric Rate and Corporate Regulation Filings

February 15, 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. MidAmerican Energy Company

[Docket No. ER02–998–000]

Take notice that on February 11, 2002, MidAmerican Energy Company (MidAmerican) filed with the Federal Energy Regulatory Commission (Commission) a Notice of Cancellation pursuant to Section 35.15 of the Commission's regulations. MidAmerican requests that the following rate schedule be cancelled effective as of January 31, 2002.

MidAmerican a copy of this filing has been sent to the City of Livermore, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment Date: March 4, 2002.

2. Mint Farm Generation, LLC

[Docket No. EG02–91–000]

Take notice that on February 12, 2002, Mint Farm Generation, LLC (Mint Farm Generation) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Mint Farm Generation proposes to own a 298 MW generating facility located in the city of Longview, Washington (Facility). The proposed Facility is expected to commence commercial operation in June, 2003. All output from the Facility will be sold by Mint Farm exclusively at wholesale.

Comment Date: March 8, 2002.

3. PacifiCorp Power Marketing, Inc., PacifiCorp

[Docket Nos. ER95–1096–022, ER97–2801–003]

Take notice that on February 12, 2002, PacifiCorp Power Marketing, Inc. and PacifiCorp tendered for filing an updated generation market power study in support of sales of electric energy at market based prices.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: March 5, 2002.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–107–001]

Take notice that on February 12, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, in compliance with the Order of the Federal Energy Regulatory Commission (Commission) in Midwest Independent Transmission System Operator Inc., 97 FERC ¶ 61,270 (2001) and pursuant to Section 205 of the Federal Power Act (FPA), 16 USC 824d (2000) and Section 385.205 of the Commission's regulations, 18 CFR 385.205 (2001), proposed revisions to the Midwest ISO Agreement of the Transmission Facilities Owners To Organize The Midwest Independent Transmission System Operator, Inc. (Midwest ISO Agreement), First Revised Rate Schedule FERC No. 1.

Pursuant to the Commission's regulations, 18 CFR 385.2010 (2001), the Midwest ISO has served this filing on all parties on the official service list in this proceeding. In addition, the Midwest ISO has electronically served a copy of this 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. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: March 5, 2002.

5. GNE, LLC

[Docket No. ER02–159–003]

Take notice that on February 12, 2002, GNE, LLC (GNE) tendered for filing with the Federal Energy Regulatory Commission (Commission) a revised tariff sheets with respect to the Commission's Order issued December 19, 2001 herein granting its application for authorization to sell and to broker electric power at market based rates, and the Commission's Order issued January 30, 2002, herein directing GNE to resubmit revised tariff sheets.

Comment Date: March 5, 2002.

6. Armstrong Energy Limited Partnership, LLLP, Troy Energy, LLC

[Docket Nos. ER02–300–003, ER02–301–003]

Take notice that on February 12, 2002, Armstrong Energy Limited Partnership, LLLP (Armstrong) and Troy Energy, LLC (Troy), have modified their January 18, 2002 deficiency correction by modifying the price cap and treating the rate authorizations as independent rate schedules.

Copies of the filing were served upon Ohio Public Utilities Commission, the Pennsylvania Public Service Commission, the North Carolina Utilities Commission, and the Virginia State Corporation Commission.

Comment Date: March 5, 2002.

7. Duke Energy Enterprise, LLC

[Docket No. ER02–565–001]

Take notice that on February 12, 2002, Duke Energy Enterprise, LLC filed a notice of status change with the Federal Energy Regulatory Commission in connection with the pending change in upstream control of Engage Energy America LLC and Frederickson Power L.P. resulting from a transaction involving Duke Energy Corporation and Westcoast Energy Inc.

Copies of the filing were served upon all parties on the official service lists compiled by the Secretary of the Federal Energy Regulatory Commission in these proceedings.

Comment Date: March 5, 2002.

8. Southern California Edison Company

[Docket No. ER02–925–001]

Take notice that on February 13, 2002, Southern California Edison Company (SCE) tendered for filing several corrections to the revisions to its Transmission Owner Tariff (TO Tariff), FERC Electric Tariff, Substitute First Revised Original Volume No. 6, SCE requested in a filing on January 31, 2002 in Docket No. ER02–925–000. The revisions result in a proposed increase in revenues from TO Tariff transmission customers by $63.6 million based on the 12-month period ending December 31, 2002.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the California Independent System Operator Corporation (ISO), the California Electricity Oversight Board, and all ISO-certified Scheduling Coordinators.

Comment Date: March 5, 2002.

9. Unitil Power Corp.

[Docket No. ER02–999–000]

Take notice that on February 11, 2002, Unitil Power Corp. (Unitil Power) tendered for filing with the Federal Energy Regulatory Commission (Commission) a market-based rate tariff, including a form of umbrella service agreement. The proposed market-based rate tariff does not replace Unitil Power's existing market-based rate tariff, FERC Electric Tariff, Volume No. 3, and service provided thereunder will not be affected. Unitil Power requests waiver of the Commission's notice of filing requirements to allow the proposed market-based rate tariff to become effective on March 13, 2002.

A copy of the filing was served upon the New Hampshire Public Utilities Commission.

Comment Date: March 4, 2002.

10. TECO-PANDA Generating Company, L.P.

[Docket No. ER02–1000–000]

Take notice that on February 11, 2002, TECO–PANDA Generating Company, L.P. tendered for filing an application for authorization to sell energy, capacity and ancillary services at market-based rates pursuant to section 205 of the Federal Power Act. A copy of this filing has been served on the Florida Public Service Commission.

Comment Date: March 4, 2002.

11. Michigan Electric Transmission Company LLC

[Docket No. ES02–24–000]

Take notice that on February 13, 2002, Trans-Elect, Inc., on behalf of Michigan Electric Transmission Company LLC (Michigan Electric) submitted an application seeking authorization for Michigan Electric to issue and sell no more than $235 million of secured securities in the form of notes and loan obligations under a credit agreement with banks and other lenders as more fully described in the application.

Comment Date: March 1, 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. 02–4348 Filed 2–22–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7149–1]

Proposed Settlement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree which was lodged with the United States District Court for the Northern District of California by the United States Environmental Protection Agency (''EPA'') on January 15, 2002 to address a lawsuit filed by the Medical Alliance for Healthy Air, Sierra Club, Latino Issues Forum and Center on Race, Poverty and the Environment, a project of the California Rural Legal Assistance Foundation. This lawsuit, which was filed pursuant to section 304(a) of the Act, 42 U.S.C. 7604(a), addresses EPA's alleged failure to meet mandatory deadlines under section 110(k) of the Act, 42 U.S.C. 7410(k), to take final actions to approve or disapprove the 1997 PM–10 Attainment Demonstration Plan for the San Joaquin Valley (''SJV'') in California and six individual rules for the control of PM–10 and nitrogen oxide (NO_X) in the SJV. *Medical Alliance for Healthy Air et al.* v. *EPA,* Case No. C–01–4086 JCS (N.D. Cal.).

DATES: Written comments on the proposed consent decree must be received by March 27, 2002.

ADDRESSES: Written comments should be sent to Jan Taradash, Office of Regional Counsel, U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the proposed consent decree are available from Jan Taber, (415) 972–3900.

SUPPLEMENTARY INFORMATION: The Clean Air Act requires EPA to take action to approve or disapprove a State implementation plan revision within 12 months of a determination by the Administrator that such revision is complete. See section 110(k)(1)–(4), 42 U.S.C. 7410(k)(1)–(4). In 1997, the California Air Resources Board (''CARB'') submitted to EPA the PM–10 Attainment Demonstration Plan (''1997 Plan'') for the SJV as a proposed revision to the California State Implementation Plan (''SIP''). This SIP revision was deemed complete by operation of law in 1998 pursuant to section 110(k)(1)(B), 42 U.S.C. 7410(k)(1)(B). The proposed consent decree provides that the Administrator or her delegatee shall sign no later than March 1, 2002, a notice for publication in the **Federal Register** proposing action on the 1997 Plan and shall sign no later than August 16, 2002 a notice for publication in the **Federal Register** taking final action pursuant to section 110(k) of the Act, 42 U.S.C. 7410(k).

From 1993 through 1998, CARB also submitted six rules adopted by the San Joaquin Valley Unified Control District for the control of PM–10 and NO_X in the SJV and EPA found them to be complete pursuant to section 110(k)(1)(B), 42 U.S.C. 7410(k)(1)(B) as follows: Rules 4201 (1992), 4901 (1994), 4351 (1996), 4305 (1997), 4701 (1998) and 4703 (1998). EPA has proposed action on these rules pursuant to section 110(k) of the Act, 42 U.S.C. 7410(k). The proposed consent decree provides that the Administrator or her delegatee shall sign no later than January 15, 2002, a notice or notices for publication in the **Federal Register** taking final action on Rules 4901, 4351, 4305, 4701 and 4703 and shall sign such a notice taking final action on Rule 4201 no later than April 7, 2002. The Administrator signed notices by January 15, 2002, taking final action on Rules 4901, 4351, 4305, 4701 and 4703.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed consent decree from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed consent decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final consent decree will then be executed by the parties.

Dated: February 15, 2002.

Alan W. Eckert,

Associate General Counsel, Air and Radiation Law Office.

[FR Doc. 02–4404 Filed 2–22–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL TRADE COMMISSION

[Docket No. 9297]

American Home Products Corp.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint previously issued and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 15, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: David Pender, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2549.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and §3.25(f) of the Commission's rules of practice, 16 CFR 3.25(f), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 19, 2002), on the World Wide Web, at ''*http://www.ftc.gov/os/2002/02/index.htm.*'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with §4.9(b)(6)(ii)

of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis To Aid Public Comment

The Federal Trade Commission has accepted for public comment an agreement and proposed consent order with American Home Products Corporation. The proposed consent order would settle charges that AHP unlawfully agreed with Schering-Plough Corporation to delay selling its generic version of Schering's K-Dur 20, in exchange for payments from Schering. The proposed consent order has been placed on the public record for 30 days to receive comments by interested persons. The proposed consent order has been entered into for settlement purposes only and does not constitute an admission by AHP that it violated the law or that the facts alleged in the complaint, other than the jurisdictional facts, are true. In July 2001, AHP advised its customers that it intends to phase out its oral generic drug product line.

Background

Schering develops and markets brand name and generic drugs, as well as over-the-counter health care and animal care products. Schering manufactures and markets an extended-release micro-encapsulated potassium chloride product, K-Dur 20. K-Dur 20, marketed as a brand name drug, has sales over $200 million per year. K-Dur 20 is used to treat patients who suffer from insufficient levels of potassium, a condition that can lead to serious cardiac problems.

AHP develops and markets brand name and generic drugs, as well as over-the-counter medications. ESI Lederle, Incorporated, a division of AHP, received tentative approval from the Food and Drug Administration in May 1999 for a generic version of Schering's K-Dur 20.

Upsher-Smith Laboratories, Inc. develops and markets brand name and generic drugs. Upsher-Smith received final approval from the Food and Drug Administration in November 1998 for a generic version of Schering's K-Dur 20.

Generic drugs are chemically identical to their branded counterparts, but typically are sold at substantial discounts from the branded price. A Congressional Budget Office Report estimates that purchasers saved an estimated $8–10 billion on prescriptions at retail pharmacies in 1994 by purchasing generic drugs instead of the brand name product. [1]

The Drug Price Competition and Patent Term Restoration Act of 1984, commonly referred to as ''the Hatch-Waxman Act,'' establishes certain rights and procedures in situations where a company, such as AHP or Upsher, seeks FDA approval to market a generic product prior to the expiration of a patent or patents relating to a brand name drug upon which the generic is based. In such cases, the applicant must: (1) Certify to the FDA that the patent in question is invalid or is not infringed by the generic product (known as a ''paragraph IV certification''); and (2) notify the patent holder of the filing of the certification. If the holder of patent rights files a patent infringement suit within 45 days of the notification, FDA approval to market the generic drug is automatically stayed for 30 months, unless before that time the patent expires or is judicially determined to be invalid or not infringed. This automatic 30-month stay allows the patent holder time to seek judicial protection of its patent rights before a generic competitor is permitted to market its product.

In addition, the Hatch-Waxman Act provides an incentive for generic drug companies to bear the cost of patent litigation that may arise when they challenge invalid patents or design around valid ones. The Act, as currently interpreted, grants the first company to file an ANDA in such cases a 180-day period during which it has the exclusive right to market a generic version of the brand name drug. No other generic manufacturer may obtain FDA approval to market its product until the first filer's 180-day exclusivity period has expired.

Upsher-Smith was the first company to file an ANDA for a generic version of Schering's K-Dur 20. Upsher-Smith filed a paragraph IV certification with the FDA, stating that its product did not infringe any valid patent held by Schering covering K-Dur 20. In 1995, Schering sued Upsher-Smith for patent infringement. The complaint alleges that at all times relevant herein, FDA final approval of an ANDA for a generic version of K-Dur 20 for anyone other than Upsher-Smith was blocked. Pursuant to the Hatch-Waxman Act, Upsher-Smith was eligible for the right to a 180-day Exclusivity Period for the sale of a generic version of K-Dur 20. The complaint further alleges that as a result, no company could obtain final FDA approval of an ANDA to market or sell a generic version of K-Dur 20 until 180 days after Upsher-Smith first sold its product, or until Upsher-Smith's exclusivity right is relinquished, forfeited or otherwise expired.

ESI was the second company to file an ANDA for K-Dur 20. ESI also filed a paragraph IV certification with the FDA stating that its product did not infringe any valid patent held by Schering covering K-Dur 20. In 1996, Schering sued ESI for patent infringement.

The Challenged Agreements

The complaint challenges unlawful agreements between Schering and Upsher-Smith and among Schering, AHP and ESI to delay the entry of low-cost generic competition to Schering's highly profitable prescription drug K-Dur 20. According to the complaint, when confronted with the prospect of competition to K-Dur 20 through generic entry by Upsher-Smith and ESI, Schering entered into these agreements that kept Upsher, ESI and all other potential generic competitors out of the market. The complaint alleges that the Upsher-Smith/Schering agreement delayed the start of Upsher-Smith's 180-day Exclusivity Period until September 2001 and, as a result, the entry of competition from other generic manufacturers until March 2002.

With respect to AHP and ESI, the complaint alleges that in January 1998, Schering, AHP, and ESI reached an agreement to settle their patent litigation. Pursuant to that agreement: Schering agreed to pay ESI up to $30 million; AHP and ESI agreed to refrain from marketing the allegedly infringing generic version of K-Dur 20 or any other generic version of K-Dur 20, regardless of whether such product would infringe Schering's patents, until January 2004; AHP and ESI agreed to refrain from marketing more than one generic version of K-Dur 20 between January 2004 and September 2006, when the K-Dur 20 patent will expire; and AHP and ESI agreed not to conduct, sponsor, file or support a study of the bio-equivalence of any product to K-Dur 20 prior to September 2006. Schering agreed to pay ESI $5 million up front; an additional $10 million if ESI could demonstrate that its generic version of K-Dur 20 was able to be approved by the FDA under an ANDA on or before June 30, 1999; and another $15 million for licenses to two generic products that ESI was developing.

The complaint further alleges that the patent litigation between Schering and ESI was dismissed. Schering has paid ESI over $20 million and continues to make payments under the terms of their agreement. Schering has made no sales to date of the two products it licensed from ESI.

[1] Congressional Budget Office, How Increased Competition from Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry at xiii, 13 (July 1998).

Competitive Analysis

Generic drugs can have a swift marketplace impact, because pharmacists generally are permitted, and in some instances are required, to substitute lower-priced generic drugs for their branded counterparts, unless the prescribing physician directs otherwise. In addition, there is a ready market for generic products because certain third-party payers of prescription drugs (e.g., state Medicaid programs and many private health plans) encourage or insist on the use of generic drugs wherever possible.

The complaint charges that the challenged agreement among Schering, AHP and ESI injured competition by preventing or discouraging the entry of generic K-Dur 20. The complaint also alleges that by making cash payments to ESI, Schering induced it to agree to delay launching its generic version of K-Dur 20. According to the complaint, absent those payments, ESI would not have agreed to delay its entry for so long. The complaint charges that by making cash payments to ESI, Schering protected itself from competition from ESI until 2004. The complaint also alleges that without lower-priced generic competition from Upsher-Smith and ESI, consumers, pharmacies, hospitals, insurers, wholesalers, government agencies, managed care organizations, and others are forced to purchase Schering's more expensive K-Dur 20 product.

The Proposed Order

The proposed order is designed to remedy the unlawful conduct charged against AHP in the complaint and prevent recurrence of such conduct. As described more fully below, the proposed order would essentially prohibit two categories of conduct:

- Agreements in which the NDA holder makes payments to an ANDA filer and the ANDA filer agrees not to market its product for some period of time (except in certain limited circumstances) (Paragraph II deals with agreements that resolve a patent infringement dispute and Paragraph IV covers ''interim'' agreements that apply during the pendency of ongoing patent litigation); and
- Agreements between the NDA holder and an ANDA filer in which the generic competitor agrees not to enter the market with a non-infringing generic product (Paragraph III).

The proposed order would apply to AHP whether it is acting as potential generic competitor (an ANDA filer) or as a branded drug seller (an NDA holder). As noted above, AHP has advised its customers that it intends to phase out its oral generic pharmaceutical product line. It will continue to develop, manufacture, and market brand name drugs and injectable generic drugs. Notwithstanding AHP's plans to phase out its oral generic products—the line of business that includes its generic version of K–Dur 20—an order is appropriate here to prevent a recurrent violation.

Paragraph II of the order covers agreements to resolve patent infringement disputes. It bars agreements wherein (1) The NDA holder makes payments or otherwise transfers something of value to the ANDA filer and (2) the ANDA filer agrees not to market its product for some period of time, except under certain limited circumstances described below. The ban in Paragraph II includes not only settlements of ongoing patent infringement litigation, but also agreements resolving claims of patent infringement that have not resulted in a lawsuit (see Paragraph I.O.). In addition, by virtue of the definition of ''Agreement'' in Paragraph I.D., the order makes it clear that the prohibition on payments for delayed generic entry would cover such arrangements even if they are achieved through separate agreements (for example, where one agreement resolves the patent infringement dispute and another provides for the payment for delayed entry).

The order prohibits not merely cash payments to induce delayed entry, but, more broadly, agreements in which the NDA holder provides something of value to the potential generic entrant, and the ANDA filer agrees in some fashion not to sell its product. Although all of the pharmaceutical agreements that the Commission has challenged to date have involved cash payments, a company could easily evade a prohibition on such agreements by substituting other things of value for cash payments. Thus, to protect against a recurrent violation, the order is not limited to cash payments.

The proposed order distinguishes between the first ANDA filer (the party eligible for the 180-day market exclusivity period under the Hatch-Waxman Act) and later filers. It bars giving ''anything of value'' to the first ANDA filer, but would permit NDA holders to grant other ANDA filers a delayed license to manufacture the ANDA product. The proposed order makes this distinction because an agreement by a later filer to refrain from entering does not block entry by other potential competitors. Where the only value granted by the NDA holder is the license to sell the ANDA product, there is no payment to distort the generic's incentive to seek the earliest possible entry date. In the case of the first ANDA filer, however, any agreement with an NDA holder that involves a promise by the generic firm not to enter the market risks blocking entry by other potential generic competitors, and therefore such agreements are subject to the general prohibition of Paragraph II of the proposed order.

As noted above, the proposed order would create a limited exception to Paragraph II's ban on giving value for delayed entry. This exception addresses the possibility that there might be some agreements that fall within the terms of the prohibition in Paragraph II that the Commission would not wish to prohibit. For example, as was previously discussed, the proposed order would ban not only agreements involving cash payments of the type that the Commission has challenged to date, but also the giving of other things of value. It is possible, however, that the giving of some non-cash items in a settlement that did not provide for immediate entry by the ANDA filer could promote competition. Thus, the order includes a mechanism that would permit consideration of such arrangements.

The exception that has been crafted in this matter could arise only in situations where Respondent AHP presents the agreement to a court in connection with a joint stipulation for a permanent injunction. In that circumstance, Paragraph II will not bar an otherwise prohibited agreement, if the following conditions are met:

- First, Respondent must follow certain procedures designed to provide notice and information both to the Commission and the court: (1) Along with the joint stipulation for permanent injunction and the proposed agreement, Respondent must provide the court with a copy of the Commission's complaint, order, and the Analysis to Aid Public Comment in this matter; (2) at least 30 days before submitting the stipulation to the court, Respondent must provide written notice (as set forth in Paragraph V of the order) to the Commission; and (3) Respondent may not oppose Commission participation in the court's consideration of the request for permanent injunction; and
- Second, either: (1) The court issues a permanent injunction and the parties' agreement conforms to the court's permanent injunction order; or (2) the Commission determines that the agreement does not raise issues under section 5 of the FTC Act.

The proviso to Paragraph II also makes it clear that the order would not

prevent Respondent AHP from unilaterally seeking relief from the court. The proviso sets forth conditions under which AHP could seek to avoid, though court action, the bar on agreements that is set forth in the core prohibition of Paragraph II of the proposed order. These conditions would not affect AHP's ability to take action that did not involve an agreement otherwise prohibited in Paragraph II.

The Commission recognizes that, outside of the class action context, final settlements between private litigants ordinarily are not scrutinized by courts. Unlike the case of a court-ordered preliminary injunction based on a stipulation of the parties (the situation addressed in Paragraph IV, discussed below), the court in the final settlement context has no express legal mandate to consider the public interest. Thus, there remains some degree of risk that an anticompetitive agreement could escape the prohibition of Paragraph II if the parties were able to persuade a court to issue their agreement as a permanent injunction. On the other hand, it is also relatively rare for courts in ordinary private litigation to issue settlement agreements as permanent injunction orders. This is likely to reduce the risk that an anticompetitive agreement would evade the order, because, as noted above, the exception to the prohibitions of Paragraph II does not arise unless the court issues a permanent injunction order. On balance, in light of all the circumstances of this proposed consent order (including that it is the first involving a challenge to a final settlement with a second ANDA filer), the Commission believes that the exception contained in Paragraph II is appropriate here.

Paragraph III prohibits agreements between an NDA holder and an ANDA filer in which the ANDA filer agrees not to develop or market a generic drug product that is not the subject of a claim of patent infringement. The Commission has previously considered this type of restraint in the context of an agreement between an NDA holder and an ANDA first filer (that is, the party possessing an unexpired right to Hatch-Waxman 180-day exclusivity), and had limited the bans in previous orders to that context. Having now considered a similar restraint in an agreement involving a later ANDA filer, the Commission believes it is appropriate to extend this prohibition to agreements between an NDA holder and any ANDA filer.

Paragraph IV addresses what are sometimes referred to as interim settlement agreements. It covers agreements that involve payment to an ANDA filer and in which the ANDA filer agrees not to enter the market for a period of time, but the patent infringement litigation continues. AHP would be barred from entering into such interim agreements. As in Paragraph II, it extends beyond cash payments to cover the NDA holder's providing ''anything of value'' to the ANDA filer, and provides an exception in limited circumstances, similar to those described in connection with Paragraph II of the proposed order. Although the challenged conduct here was an agreement in connection with a final settlement of litigation, rather than an interim agreement, this provision is appropriate in light of the serious antitrust concerns raised by interim agreements and the need to impose an order to prevent recurrence of violations similar to that with which AHP is charged.

The form of notice that Respondent AHP must provide to the Commission under Paragraphs II and IV of the order is set forth in Paragraph V. In addition to supplying a copy of the proposed agreement, AHP is required to provide certain other information to assist the Commission in assessing the potential competitive impact of the agreement. Accordingly, the order requires Respondent to identify, among other things, all others known by AHP to have filed an ANDA for a product containing the same chemical entities as the product at issue, as well as the court that is hearing any relevant legal proceedings involving Respondent. In addition, Respondent AHP must provide the Commission with certain documents that evaluate the proposed agreement.

The proposed order also contains certain reporting and other provisions that are designed to assist the Commission in monitoring compliance with the order and are standard provisions in Commission orders.

The proposed order would expire in 10 years.

Opportunity for Public Comment

The proposed order has been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the agreement. The analysis is not intended to constitute an official interpretation of the agreement, the complaint, or the proposed consent order, or to modify their terms in any way.

By direction of the Commission, Chairman Muris not participating.

Donald S. Clark,

Secretary.

[FR Doc. 02–4374 Filed 2–22–02; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 992 3034]

TechnoBrands, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 30, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW,. Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: James Dolan or Heather Hippsley, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3292 or 326–3285.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 19, 2002), on the World Wide Web, at *http://*

www.ftc.gov/os/2002/02/index.htm. A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondents TechnoBrands, Inc., and Charles J. Anton, individually and as president of the corporate respondent.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns practices related to the advertising, offering for sale, sale, and distribution of various products to the public, including the Hollywood 48–Hour Miracle Diet, a liquid diet; the Enforma System, a diet product combination consisting primarily of chitosan and pyruvate; the BMI Magnetic Kit, a set of magnets with purported analgesic properties; the Nisim New Hair Biofactors System, a purported hair-growth product; the Clarion Ionic Filter Ceiling Fan, an air-cleaning device; and the Sila Ionic Air Purifier, another air-cleaning device. The Commission's complaint charges that respondents violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, by making numerous representations that were false and/or for which they lacked a reasonable basis of substantiation. These representations concerned: the weight loss that consumers can achieve with the Hollywood Diet and Enforma; the pain relief that can be achieved with the BMI Magnetic Kit; the effectiveness of Nisim in stopping hair loss and stimulating hair growth; the ability of the air cleaners to eliminate various pollutants from indoor space; the health benefits of using the Clarion Fan; the scientific evidence for the efficacy of some of these products; the comparative efficacy of some of these products; and the experiences of consumers and celebrities who purportedly have used some of these products.

Part I of the proposed order prohibits a representation that consumers who use the Hollywood Diet, or any substantially similar product, can lose 10 lbs. in 48 hours, unless respondents possess competent and reliable scientific evidence that substantiates the representation. In addition, Part I prohibits representations that celebrities, such as actors and actresses in popular television programs, have lost substantial weight by using the product, unless the respondents possess competent and reliable evidence that substantiates the representations.

Part II of the proposed order prohibits representations that by using Enforma, or any substantially similar product, consumers can achieve substantial weight loss, or avoid weight gain, without a restricted calorie diet or exercise, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part III of the proposed order prohibits representations that use of the BMI Magnetic Kit, or any substantially similar product, relieves severe pain; relieves pain more effectively than other kinds of treatment; and relieves pain by enlarging blood vessels, increasing blood flow, reducing inflammation, or suppressing the body's production of pain-causing chemicals, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part IV of the proposed order prohibits representations that Nisim, or any substantially similar product, stops hair loss in a matter of days or stimulates hair growth as effectively as prescription products, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part V of the proposed order prohibits representations that the Clarion Ceiling Fan, or any substantially similar product, eliminates dust mites and pet dander from the user's environment, or that consumers who use the product will experience relief from allergies and other respiratory problems, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part VI of the proposed order prohibits representations that the Sila Air Purifier, or any substantially similar product, eliminates mold, mildew, bacteria, chemicals, and other pollutants from a user's environment, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part VII of the proposed order prohibits unsubstantiated representations about the comparative or absolute benefits, performance, or efficacy of any product or service.

Part VIII of the proposed order prohibits misrepresentations about the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Part IX of the proposed order prohibits representations that any user testimonial or endorsement of a product reflects the actual experience of the user or that the user's experience is the typical experience of members of the public using the product, unless: (1) The representation is true and substantiated by competent and reliable scientific evidence; or (2) there is a disclosure of either the generally expected results for users of the product, or that consumers should not expect to experience similar results.

Part X of the proposed order requires that respondents pay to the Federal Trade Commission the sum of $200,000.

Part XI of the proposed order is a record keeping provision that requires the respondents to maintain certain records for three (3) years after the last date of dissemination of any representation covered by the order. These records include: (1) All advertisements and promotional materials containing the representation; (2) all materials relied upon in disseminating the representation; and (3) all evidence in respondents' possession or control that contradicts, qualifies, or calls into question the representation or the basis for it.

Part XII of the proposed order requires distribution of the order to current and future principals, officers, directors, and managers of the corporation.

Part XIII of the proposed order requires distribution of Attachment A to the order to current and future employees, agents, and representatives having responsibilities with respect to

the advertising and sale of products to the public. Attachment A is entitled ''Legal Notice'' and is a summary of the injunction provisions of the proposed order.

Part XIV of the proposed order requires that the Commission be notified of any change in the corporation that might affect compliance obligations under the order. Part XV of the proposed order requires that for a period of three (3) years, the individual respondent notify the Commission of the discontinuance of his current business or employment or of his affiliation with any new business or employment involving the sale of consumer products and/or services.

Part XVI of the proposed order requires the respondents to file a compliance report with the Commission.

Part XVII of the proposed order states that, absent certain circumstance, the order will terminate twenty (20) years from the date it is issued.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–4375 Filed 2–22–02; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 519A

AGENCY: Office of Communications, GSA.

ACTION: Guideline on Automating Medical Standard Forms.

Background: The Interagency Committee on Medical Records (ICMR) is aware of numerous activities using computer-generated medical forms, many of which are not mirror-like images of the genuine paper Standard/Optional Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposed to set required fields standards and that activities developing computer-generated versions adhere to the required fields but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those fields which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add or delete data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data entry elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements. This guideline controls the ''image'' or required fields but not the actual data entered into the field.

SUMMARY: With GSA's approval, the Interagency Committee of Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following fields must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR SF 519A

Item	Placement [1]
Radiologic consultation request/report.	Top of form.
Standard Form 519A (Rev. 8/1983)(Form ID).	Bottom right corner of form.
1-Medical Record	Bottom left corner of form.
2-Physician	Bottom left corner of form.
3-Radiology	Bottom left corner of form.
Data Entry Fields:	
Patient information (Text)	Above below listed items.
Last name	
First name	
Middle name	
Medical facility	
Age	
Sex	
SSN (Sponsor)	
Ward/clinic	
Register No.	
Examination requested (Use SF 519B for multiple exams)	
Requested by	
Telephone number	
Location of medical records	
Film number	
Date requested	
Pregnant—Yes (Checkbox)	
Pregnant—No (No)	

ELECTRONIC ELEMENTS FOR SF 519A—Continued

Item	Placement [1]
Specific reason(s) for Request (Complaints and findings)	
Date of examination (Month, day, year)	
Date of report (Month, day, year)	
Date of transcription (Month, day, year)	
Radiologic report	
Signature	
Location of radiologic facility	

[1] If no specific placement, data element may be in any order.

FOR FURTHER INFORMATION CONTACT: CDR Katherine Ciacco Palatianos, Indian Health Service, Department of Health and Human Services, 5600 Fishers Lane, Room 6A–55, Rockville, MD 20857 or E–Mail at *kciacco@hge.ihs.gov.*

DATES: Effective February 25, 2002.

Dated: February 12, 2002.

CDR Katherine Ciacco Palatianos,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 02–4452 Filed 2–22–02; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–02–28]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c)

ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: National Public Health Performance Standards Program Local Public Health Governance Performance Assessment Instrument—New—Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC).

Since 1998, the CDC National Public Health Performance Standards Program has convened workgroups with the National Association of County and City Health Officials (NACCHO), the Association of State and Territorial Health Officials (ASTHO), the National Association of Local Boards of Health (NALBOH), the American Public Health Association (APHA), and the Public Health Foundation (PHF) to develop performance standards for public health systems based on the ten Essential Services of Public Health. In the Spring of 2001, CDC conducted field tests with the local public health governance instruments in the state of Massachusetts.

CDC is now proposing to implement a voluntary data collection to assess the capacity of local boards of health to deliver the Essential Public Health Services. This data collection will provide a framework for local boards of health to evaluate their effectiveness. Electronic data submission will be the method of choice. If computer technology in local jurisdictions does not support electronic submission, hard copy survey instruments will be available. Local jurisdictions using hard copy survey instruments will receive assistance from State or local level field coordinators for web-based data entry.

Local boards of health will respond to the survey. An estimated 33% of approximately 3,200 United States local boards are expected to participate in the National Performance Standards Program per year.

There are no costs to respondents. The burden hours are estimated to be 30,198.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)	Total burden (in hrs.)
Local Boards of Health Year 1	1,066	1	10	10,660
Local Boards of Health Year 2	1,066	1	10	10,660
Local Boards of Health Year 3	1,066	1	10	10,660
Total				30,198

Dated: February 13, 2002.

John Moore,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–4371 Filed 2–22–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10036]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection;

Title of Information Collection: Inpatient Rehabilitation Assessment Instrument and Data Set for PPS for Inpatient Rehabilitation Facilities and Supporting Regulations in 42 CFR, Parts 412 and 413;

Form No.: CMS–10036 (OMB# 0938–0842);

Use: This is a request to use the IRF–PAI and its supporting manual for the implementation phase of the inpatient rehabilitation PPS. There have been no revisions or modifications to the instrument; however, this submission includes the current manual/instructions which has been revised. Use of this instrument will enable CMS to implement a classification system and payment system for the Legislatively mandated inpatient rehabilitation hospital and exempt units Prospective Payment System (PPS);

Frequency: On occasion;

Affected Public: Business or other for-profit, and Not-for-profit institutions;

Number of Respondents: 359,000;

Total Annual Responses: 359,000;

Total Annual Hours: 269,250.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Dawn Willinghan, CMS–10036, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 14, 2002.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–4358 Filed 2–22–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10061]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection;

Title of Information Collection: Evaluation of Programs of Coordinated Care and Disease Management;

Form No.: CMS–10061 (OMB# 0938–NEW);

Use: CMS is currently conducting two demonstration programs to determine the impact of programs of coordinated care and disease management on health outcomes and costs of care for Medicare beneficiaries. The purpose of this evaluation is to provide an independent assessment of the effectiveness of these programs, and to provide the basis for the Reports to Congress required for the care coordination demonstration. To provide this information, the evaluation must generate both rigorous quantitative estimates of the programs' impacts and qualitative analyses of the programs' processes. Surveys of demonstration participants and their health care providers are an integral part of this evaluation.;

Frequency: Other: One-time;

Affected Public: Individuals or Households, Business or other for-profit, and Not-for-profit institutions;

Number of Respondents: 11,356;

Total Annual Responses: 11,356;

Total Annual Hours: 5,465.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Dawn Willinghan, CMS–10061, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 14, 2002.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–4359 Filed 2–22–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–79]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services DHHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Payment Adjustment for Sole Community Hospitals and Supporting Regulations in 42 CFR, Section 412.92;

Form No.: CMS–R–79 (OMB# 0938–0477);

Use: Hospitals designated ''sole community hospitals'' that experience a 5 percent decrease in discharges in one cost reporting period, as compared to the previous period, due to unusual circumstances beyond its control, may request an adjustment to its Medicare payment amount;

Frequency: On Occasion;

Affected Public; Not-for-profit institutions, Business or other for-profit, and State, Local or Tribal Gov.;

Number of Respondents: 40;

Total Annual Responses: 40;

Total Annual Hours: 160.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* of e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Dawn Willinghan, CMS–R–79, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 14, 2002.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–4360 Filed 2–22–02; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Medicare and Medicaid Services

[Document Identifier: CMS–10037]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Center for Medicare and Medicaid Services DHHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Center for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Real Choice Systems Change Grants; Nursing Facility Transition/Access Housing Grants; Community Personal Assistance Service and Supports Grants, National Technical Assistance and Learning Collaborative Grants to Support Systems Change for Community Living;

Form No.: CMS–10037 (OMB# 0938–0836);

Use: Information sought by CMSO/DEHPG is needed to award competitive grants to States and other eligible entities for the purposes of designing and implementing effective and enduring improvements in consumer-directed long term service and support systems;

Frequency: Annually;

Affected Public: State, local or tribal gov.;

Number of Respondents: 76;

Total Annual Responses: 76;

Total Annual Hours: 7600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: November 13, 2001.

Julie Brown,

Acting CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–4357 Filed 2–22–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Projects

Title: Grants to states for access and visitation programs.

OMB No.: 0970–0204.

Description: States are required to provide descriptions of grant funded local and/or state access and visitation programs and data on these programs with regard to numbers of participants, referral sources, project goals, services delivered, and other relevant data.

Respondents: State access and visitation program monitors; local project administrators.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Program survey	324	1	20	6,480
Estimated total annual burden hours				6,480

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collections of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 13, 2002.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 02–4341 Filed 2–22–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0012]

Agency Information Collection Activities; Proposed Collection; Comment Request; Postmarketing Adverse Drug Experience Reporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on postmarketing adverse drug experience reporting and recordkeeping requirements.

DATES: Submit written or electronic comments on the collection of information by April 26, 2002.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Postmarketing Adverse Drug Experience Reporting—21 CFR 310.305 and 314.80 (OMB Control No. 0910–0230)—Extension

Sections 201, 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321, 352, 355, and 371) require that marketed drugs be safe and effective. In order to know whether drugs that are not safe and effective are on the market, FDA must be promptly informed of adverse experiences occasioned by the use of marketed drugs. In order to help ensure this, FDA issued regulations (§§ 310.305 and 314.80 (21 CFR 310.305 and 314.80)) to impose reporting and recordkeeping requirements on the drug industry that would enable FDA to take action necessary for protection of the public health from adverse drug experiences.

All applicants who have received marketing approval of drug products are required to report to FDA serious, unexpected adverse drug experiences, as well as followup reports when needed (§ 314.80(c)(1)). This includes reports of all foreign or domestic adverse experiences as well as those obtained in scientific literature and from postmarketing epidemiological/surveillance studies. Under § 314.80(c)(2) applicants must provide periodic reports of adverse drug experiences. A periodic report includes, for the reporting interval, reports of serious, expected adverse drug experiences and all nonserious adverse drug experiences, a narrative summary and analysis of adverse drug experiences and a history of actions taken because of adverse drug experiences. Under § 314.80(i) applicants must keep for 10 years records of all adverse drug experience reports known to the applicant.

For marketed prescription drug products without approved new drug applications or abbreviated new drug applications, manufacturers, packers, and distributors are required to report to FDA serious, unexpected adverse drug experiences as well as followup reports when needed (§ 310.305(c)). Under § 310.305(f) each manufacturer, packer, and distributor shall maintain for 10 years records of all adverse drug experiences required to be reported.

The primary purpose of FDA's adverse drug experience reporting system is to provide a signal for potentially serious safety problems with marketed drugs. Although premarket testing discloses a general safety profile of a new drug's comparatively common adverse effects, the larger and more diverse patient populations exposed to the marketed drug provides, for the first time, the opportunity to collect information on rare, latent, and long-term effects. Signals are obtained from a variety of sources, including reports from patients, treating physicians, foreign regulatory agencies, and clinical investigators. Information derived from the adverse drug experience reporting system contributes directly to increased public health protection because the information enables FDA to make important changes to the product's labeling (such as adding a new warning) and when necessary, to initiate removal of a drug from the market.

Respondents to this collection of information are manufacturers, packers, distributors, and applicants. FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
310.305(c)(5)	1	1	1	1	1
314.80(c)(1)(iii)	5	1	5	1	5
314.80(c)(2)	683	15	10,245	5	286,860
Total					286,866

[1] The reporting burden for §§310.305(c)(1), (c)(2), and (c)(3), and 314.80(c)(1)(i) and (c)(1)(ii)(c) was reported under OMB Control No. 0910–0291. There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
310.305(f)	25	1	25	1	25
314.80(i)	683	1	683	1	683
Total					708

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: February 12, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–4456 Filed 2–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81F–0387]

Abbott Laboratories; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 2B3593), filed by Abbott Laboratories, proposing that the food additive regulations be amended to provide for the safe use of cyclohexylsulfamic acid as a catalyst in resinous and polymeric coatings.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3091.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 19, 1982 (47 FR 2791), FDA announced that a food additive petition (FAP 2B3593) had been filed by Abbott Laboratories, North Chicago, IL 60064 (now 100 Abbott Park Rd., Abbott Park, IL 60064–6091). The petition proposed to amend the food additive regulations to provide for the safe use of cyclohexylsulfamic acid as a catalyst in resinous and polymeric coatings. Abbott Laboratories has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: January 29, 2002.

Leslye M. Fraser,

Acting Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 02–4381 Filed 2–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–1221]

Determination of Regulatory Review Period for Purposes of Patent Extension; Celexa

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Celexa and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

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

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may

have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Celexa (citalopram hydrobromide). Celexa is indicated for the treatment of depression. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Celexa (U.S. Patent No. 4,650,884) from H. Lundbeck A/S, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 19, 2000, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Celexa represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Celexa is 5,498 days. Of this time, 5,061 days occurred during the testing phase of the regulatory review period, while 437 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: July 30, 1983. The applicant claims August 4, 1983, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 30, 1983, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: May 7, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for Celexa (NDA 20–822) was initially submitted on May 7, 1997.

3. *The date the application was approved*: July 17, 1998. FDA has verified the applicant's claim that NDA 20–822 was approved on July 17, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may submit to the Dockets Management Branch (address above) written or electronic comments and ask for a redetermination by April 26, 2002. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 26, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 24, 2002.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 02–4382 Filed 2–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–0099]

Determination of Regulatory Review Period for Purposes of Patent Extension; Menicon Z Rigid Gas Permeable Contact Lens

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Menicon Z Rigid Gas Permeable Contact Lens and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

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

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device Menicon Z Rigid Gas Permeable Contact Lens. This product is indicated for extended wear (from 1 to 7 days between removals for cleaning and disinfection of the lenses, as recommended by the eyecare practitioner) for the correction of refractive error (myopia, hyperopia, presbyopia and/or astigmatism) in non-aphakic persons with non-diseased eyes. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Menicon Z Rigid Gas Permeable Contact Lens (U.S. Patent No. 4,594,401) from Menicon Co., and the Patent and Trademark Office requested FDA's

assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 6, 2001, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of Menicon Z Rigid Gas Permeable Contact Lens represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Menicon Z Rigid Gas Permeable Contact Lens is 1,917 days. Of this time, 1,435 days occurred during the testing phase of the regulatory review period, while 482 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun*: April 14, 1995. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) for human tests to begin became effective on April 4, 1995. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on April 14, 1995, which represents the IDE effective date.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: March 18, 1999. FDA has verified the applicant's claim that the premarket approval application (PMA) for Menicon Z Rigid Gas Permeable Contact Lens (PMA P990018) was initially submitted March 18, 1999.

3. *The date the application was approved*: July 11, 2000. FDA has verified the applicant's claim that PMA P990018 was approved on July 11, 2000.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,205 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written or electronic comments and ask for a redetermination by April 26, 2002. Furthermore, any interested person may petition FDA by for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 26, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 24, 2002.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 02–4383 Filed 2–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Antiviral Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Antiviral Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 19, 2002, from 8 a.m. to 5 p.m.

Location: Holiday Inn, The Ballrooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Tara P. Turner, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, e-mail: TurnerT@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12531. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug application (NDA) 21–245, Picovir (pleconaril), ViroPharma Inc., proposed for treatment of acute viral respiratory infection (the common cold) in adults.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 12, 2002. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 12, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Tara P. Turner at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 17, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–4455 Filed 2–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Childhood Vaccines Advisory Commission; Notice of Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of March.

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: March 6, 2002; 9 a.m.–3 p.m., March 7, 2002; 9 a.m.–12 p.m.

Place: The Ramada Inn, Georgetown Conference Room, 1775 Rockville Pike, Rockville, Maryland 20852, and Audio Conference Call.

The full ACCV will meet on Wednesday, March 6, from 9 a.m. to 3 p.m., and Thursday, March 7, from 9 a.m. to 12 p.m. The public can join the meeting in person at the address listed above or by audio conference call by dialing 1–888–566–5772 on March 6, and dialing 1–888–458–9977 on March 7, and providing the following information on both days:

Leader's Name: Thomas E. Balbier, Jr.

Password: ACCV.

The agenda items for March 6 will include, but not limited to: comments from the public on the legislative proposals to change the National Vaccine Injury Compensation Program (VICP), such as the American Academy of Pediatrics' proposed revisions to the VICP, and the House Committee on Government Reform bill titled, ''National Vaccine Injury Compensation Program Improvement Act of 2002,'' an update on the Vaccine Safety Data Link, a presentation of the Institute of Medicine's Report entitled, ''Multiple Immunizations and Immune System Dysfunction,'' and updates from the Office of Special Programs, the VICP, the Department of Justice, and the National Vaccine Program Office.

The agenda items on March 7 will include, but not limited to: a discussion of recommendations from the ACCV Workgroup on Proposed Legislative Changes to the VICP, and a discussion of reversionary trusts.

Persons interested in obtaining a copy of the American Academy of Pediatrics' proposed revisions to the VICP, and the proposed bill titled, ''National Vaccine Injury Compensation Program Improvement Act of 2002'' may contact Ms. Cheryl Lee by telephone at (301) 443–2124 or by e-mail at *clee@hrsa.gov* prior to March 6.

Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Ms. Cheryl Lee, Principal Staff Liaison, Division of Vaccine Injury Compensation, Office of Special Programs, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, MD 20857 or by e-mail at *clee@hrsa.gov.* Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but desire to make an oral statement, may sign-up in the Georgetown Conference Room on March 6 and March 7. These persons will be allocated time as time permits.

Anyone requiring information regarding the ACCV should contact Ms. Cheryl Lee, Principal Staff Liaison, Division of Vaccine Injury Compensation, Office of Special Programs, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–2124 or e-mail: *clee@hrsa.gov.*

Agenda items are subject to change as priorities dictate.

Dated: February 19, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–4458 Filed 2–20–02; 3:34 pm]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye 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 Eye Institute Special Emphasis Panel.

Date: March 14–15, 2002.

Time: March 14, 2002, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814,

Time: March 15, 2002, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Samuel Rawlings, PhD, Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, Bethesda, MD 20892, 301–496–5561.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: February 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4441 Filed 2–22–02; 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 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, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel ''Develop New Technologies for Drug Abuse Prevention Delivery''.

Date: March 14, 2002.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Doubletree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

(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 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4442 Filed 2–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 7–8, 2002.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD, 20892–9606, 301–443–1513, psherida@mail.nih.gov.

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 Mental Health Special Emphasis Panel.
Date: March 15, 2002.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1225, rweise@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 18, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6149, MSC9606, Bethesda, MD 20892–9606, 301–443–6102, jsherrill@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 20, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC9606, Bethesda, MD 20892–9606, 301–443–6102, rweise@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 25, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–6102, jsherrill@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: April 5, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1225, rweise@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award, 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4443 Filed 2–22–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 7, 2002.
Time: 4:00 PM to 6:00 PM.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call)
Contact Person: David I. Sommers, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, dsommers@mail.nih.gov.

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 Mental Health Special Emphasis Panel.
Date: March 21, 2002.
Time: 3:00 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Nueroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call)
Contact Person: David I. Sommers, PhD., Scientific Review Administrator, Division of Extramural Activities, National institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD, 20892–9606, 301–443–6470, dsommers@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4444 Filed 2–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Initial Review Group.
Date: February 21–22, 2002.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel & Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: John E. Richters, PhD, Scientific Review Administrator, National Institute of Nursing Research, National Institutes of Health, Natcher Building, Room 3AN32, Bethesda, MD 20892, (301) 594–5971.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: February 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4445 Filed 2–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Enter for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 1, 2002.
Time: 10:30 am to 11:30 am.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)
Contact Person: George W. Chacko, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room: 4202, MSC: 7812, Bethesda, MD 20892, 301–435–1220, chackoge@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: March 1, 2002.
Time: 3 pm to 5 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.
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: Biophysical and Chemical Sciences Integrated Review Group, Physical Biochemistry Study Section.
Date: March 3–5, 2002.
Time: 8:30 am to 2 pm.
Agenda: To review and evaluate grant applications.
Place: Pooks Hill Marriot, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Gopa Rakhit, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–1721, rakhitg@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, Clinical Oncology Study Section.
Date: March 3–5, 2002.
Time: 7 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.

Contact Person: Sharon K. Pulfer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767.
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: March 3–5, 2002.
Time: 7 pm to 11 am.
Agenda: To review and evaluate grant applications.
Place: Best Western University Tower, 4507 Brooklyn Avenue NE., Seattle, WA 98105.
Contact Person: Nadarajen A. Vydelingum, PhD, 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: March 4–5, 2002.
Time: 8 am to 6 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Mission Bay/Sea World Area, 3737 Sports Arena Blvd., San Diego, CA 92110.
Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.
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: March 4–5, 2002.
Time: 8 am to 4:30 pm.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Suites, 285 North Palm Canyon Drive, Palm Springs, CA 92262.
Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@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: AIDS and Related Research Integrated Review Group, AIDS and Related Research 2.
Date: March 4–5, 2002.
Time: 8 am to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Suites, 285 North Palm Canyon Drive, Palm Springs, CA 92262.
Contact Person: Abraham P. Bautista, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1506.
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: March 4–5, 2002.
Time: 8:30 am to 1 pm.
Agenda: To review and evaluate grant applications.

Place: River Inn, 924 25th Street, NW, Washington, DC 20037.

Contact Person: Stephen M. Nigida, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7812, Bethesda, MD 20892, (301) 435–3565.

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: AIDS and Related Research Integrated Review Group, AIDS and Related Research 3.

Date: March 4, 2002.

Time: 8:30 am to 5:30 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Suites, 285 North Palm Canyon Drive, Palm Springs, CA 92262.

Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168.

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: March 4, 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: Sally Ann Amero, PhD, 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.

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: March 5, 2002.

Time: 8 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: N. 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.

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: March 5, 2002.

Time: 9 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: Michael A Oxman, PhD, 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.

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: March 5, 2002.

Time: 10 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Suites, 285 North Palm Canyon Drive, Palm Springs, CA 92262.

Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892. (301) 435–1168.

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: March 5, 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: 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: Center for Scientific Review Special Emphasis Panel.

Date: March 6, 2002.

Time: 8 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, bunnagb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 6, 2002.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, bunnagb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 6, 2002.

Time: 2 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, bunnagb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 6, 2002.

Time: 2:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: 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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 6–8, 2002.

Time: 6:00 pm to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington, Hotel, 1400 M Street NW, Washington, DC 20005–2750.

Contact Person: Anita Miller Sostek, PhD, 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: Center for Scientific Review Special Emphasis Panel.

Date: March 6–8, 2002.

Time: 6:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo, 2121 P Street, NW, Washington, DC 20037.

Contact Person: David L. Simpson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278, simpsod@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 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4446 Filed 2–22–02; 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: Cardiovascular Sciences Integrated Review Group, Experimental Cardiovascular Sciences Study Section.
Date: March 4–5, 2002.
Time: 8 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.
Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210.
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: March 5, 2002.
Time: 3:00 pm to 3:30 pm.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.
Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210.
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: March 7–8, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 208982, (301) 435–1725.
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: Cardiovascular Sciences Integrated Review Group, Cardiovascular Study Section.
Date: March 7–8, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Gordon L. Johnson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, (301) 435–1212, *johnsong@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: March 7–8, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: The Westin Fairfax, 2100 Massachusetts Ave. NW., Washington, DC 20008.
Contact Person: Gillian Einstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5198, MSC 7850, Bethesda, MD 20817, (301) 435–4433, *einsteig@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: Cardiovascular Sciences Integrated Review Group, Pharmacology Study Section.
Date: March 7–8, 2002.
Time: 8 am to 12 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7804, Bethesda, MD 20892, 301–435–4522, *gibson@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 and Special Emphasis Panel.
Date: March 7, 2002.
Time: 8:00 am to 11:00 am.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, *bunnagb@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: March 7–8, 2002.
Time: 9:00 am to 4:00 pm.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th Street, Washington, DC 20037.
Contact Person: Gloria B. Levin, PhD, 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: March 7–8, 2002.
Time: 9:00 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.
Contact Person: Jeffrey W. Elias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 435–0913.
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: March 7–8, 2002.
Time: 10:00 am to 6:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Nancy Shinowara, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1173, *shinowan@drg.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: March 7–8, 2002.
Time: 11:30 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, *bunnagb@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: March 7, 2002.

Time: 1:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: 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.

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: March 7, 2002.

Time: 2:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: 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.*

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: March 8, 2002.

Time: 7 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: 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.

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: March 8, 2002.

Time: 9 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.

Contact Person: Noni Byrnes, PhD, 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.*

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: March 8, 2002.

Time: 11 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jerrold Fried, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, (301) 435–1777.

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: March 8, 2002.

Time: 2 am to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892, (301) 435–3566, *cooperc@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: March 11, 2002.

Time: 7 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 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, *langm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 11, 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: Daniel McPherson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, (301) 435–1175, *mcphersod@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 11, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Hilton Hotel, 8727 Colesville Road, Silver Spring, MD 20910.

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, *nelsonja@csr.nih.gov.*

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group, Orthopedics and Musculoskeletal Study Section.

Date: March 11–12, 2002.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, NW., Washington, DC 20007.

Contact Person: Daniel F. McDonald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, Respiratory Physiology Study Section.

Date: March 11, 2002.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: The Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Everett E. Sinnett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, General Medicine A Subcommittee 2.

Date: March 11–13, 2002.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: The Washington Monarch Hotel, 2401 M Street NW., Washington, DC 20037.

Contact Person: Mushtaq A. Khan, DVM, PhD, 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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 11, 2002.

Time: 1:00 am to 3:00 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: March 11, 2002.

Time: 1:30 am to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC, Bethesda, MD 20892, (301) 435–0692.

(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 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4447 Filed 2–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

National Wildlife Refuge System; National Wildlife Refuge System Centennial Commission Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting of National Wildlife Refuge Centennial Commission.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App1, section 10), notice is hereby given that the National Wildlife Refuge System Centennial Commission will hold its first meeting.

DATES: The meeting will be held March 12, 13, 2002, in Washington, DC. The meeting will convene at 9:00 a.m. ending each day at approximately 4:30 p.m.

ADDRESSES: The meeting is scheduled to be held at: The American Geophysical Union Building, 2000 Florida Avenue, NW., Washington, DC 20009.

FOR FURTHER INFORMATION CONTACT: Laurie Shaffer, 703–358–2035.

SUPPLEMENTARY INFORMATION: The Centennial Commission was established by Title III, Section 303 of the Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000 (H.R. 3671). The purpose of the Commission is to prepare, in cooperation with Federal, State, local, and nongovernmental partners, a plan to commemorate the centennial of the National Wildlife Refuge System beginning on March 14, 2003. They are also charged with planning a conference for the Centennial year.

The meeting will be open to the public, however, facilities and space of accommodating members of the public are limited and persons will be accommodated on a first-come first-served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device or materials in an alternate format), notify the contact person listed in this notice at least 2 weeks before the scheduled meeting date. We will make attempts to meet any request(s) received after that date, however, the requested auxiliary aid or service may not be available due to insufficient time.

Anyone may file with the Commission a written statement concerning matters to be discussed. The Commission may also permit attendees to address the Commission but may restrict the length of the presentations, as necessary, to allow the Commission to complete its agenda within the allotted time.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Make requests to the Director, U.S. Fish and Wildlife Service, attention: Centennial Commission Coordinator at least 7 days prior to the meeting. Further information regarding the meeting may be obtained from the Division of Visitor Services and Communications, National Wildlife Refuge System, 4401 N. Fairfax Drive, Arlington, VA 22203. Telephone: 703–358–2035.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting in Room 600, 4401 N. Fairfax Drive, Arlington, VA 22203.

Matters To Be Considered

Major topics for discussion during this meeting include:

Welcome

Objectives of the meeting

Addition and corrections to the agenda

Business:

1. Introduction to the National Wildlife Refuge System
2. Commission—Purpose, Objectives, Rules, Staffing, Budget, Other Resources
3. Centennial Events and Plans
4. Conference Proposal
5. Funding opportunities and partnerships

Closing remarks (including summary of accomplishments of the meeting, date of next proposed meeting, assignment of tasks). The Commission will also discuss organizational and administrative needs.

Dated: February 19, 2002.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 02–4536 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Application Notice Describing the Areas of Interest and Establishing the Closing Date for Receipt of Applications Under the National Earthquake Hazards Reduction Program (NEHRP) for Fiscal Year (FY) 2003

AGENCY: Department of the Interior, U.S. Geological Survey.

ACTION: Notice.

SUMMARY: Applications are invited for research projects under the NEHRP.

The purpose of this Program is to support the USGS Earthquake Hazards Program by providing products for earthquake loss reduction to the public and private sectors and by carrying out research on earthquake occurrence and effects.

Applications may be submitted by educational institutions, private firms, private foundations, individuals, and agencies of state and local governments.

ADDRESSES: The program announcement is expected to be available on or about February 19, 2002. You may obtain a copy of Announcement No. 03HQPA0001 from the USGS Contracts and Grants Information Site at *http://www.usgs.gov/contracts/nehrp/* or by writing to Sherri Newman, U.S. Geological Survey, Office of Acquisition and Grants—Mail Stop 205G, 12201 Sunrise Valley Drive, Reston, Virginia 20192, or by fax (703) 648–7901.

DATES: The closing date for receipt of applications will be on or about May 1, 2002. The actual closing date will be specified in Announcement No. 03HQPA0001.

FOR FURTHER INFORMATION CONTACT: John Unger, Earthquake Hazards Reduction Program—U.S. Geological Survey, Mail Stop 905, 12201 Sunrise Valley Drive, Reston, Virginia 20192. Telephone: (703) 648–6701.

SUPPLEMENTARY INFORMATION: Authority for this program is contained in the Earthquake Hazards Reduction Act of 1977, Public Law 95–124 (42 U.S.C. 7701, *et. seq.*). The Office of

Management and Budget Catalog of Federal Domestic Assistance Number is 15.807.

Dated: February 5, 2002.

Patricia P. Dunham,

Deputy, Chief, Office of Administrative Policy and Services.

[FR Doc. 02–4334 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ET; NVN–66423 Public Land Order No. 7505]

Withdrawal of Public Land for Bureau of Land Management Wildland Fire Station Site; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws a 0.57-acre parcel of public land from surface entry and mining to protect a Bureau of Land Management wildland fire station site. The land is located within the incorporated city of Carlin, Nevada, and is not subject to the Mineral Leasing Act of 1920 (43 CFR 3100.0–3(a)(2)(iii)).

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 775–861–6532.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2, (1994)), to protect a Bureau of Land Management wildland fire station site:

Mount Diablo Meridian

T. 33 N., R. 52 E.,

Sec. 27, lots 8 to17, inclusive in Block 6, Town of Carlin, as shown on the map filed in the office of the County Recorder of Elko County, Nevada, on March 6, 1919.

The area described contains 0.57 acres in Elko County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of the mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order, unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: November 2, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02–4373 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of March 14, 2002 meeting.

SUMMARY: This notice sets forth the date of the March 14, 2002 meeting of the Gettysburg National Military Park Advisory Commission.

DATES: The public meeting will be held on March 14, 2002 from 7:00 p.m. to 9:00 p.m.

LOCATION: The meeting will be held at the Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

Agenda: The March 14, 2002 meeting will consist of the Election of Officers which will be the election of Chairperson and Vice-Chairperson for the 2002 year; Sub-Committee reports from the Historical, Executive, and Interpretive Committees; Federal Consistency Reports Within the Gettysburg Battlefield Historic District; Operational Updates on Park Activities which consist of a briefing by the Museum Foundation on the conceptual design of the new Museum/Visitor Center complex; the Historic Landscape Rehabilitation which consists of the tree reduction in the Codori, Codori-Trostle, Trostle and Herbst woodlots; updating on the schedule of repairs for Pennsylvania Monument; Construction—consisting of the Fire Suppression for 50 historic structures; the Sewer Project and the Waterline project; Transportation—consisting of the National Park Service and the Gettysburg Borough working on the shuttle system, update of the Willoughby Run Bridge located on Route 30; update on land acquisition within the park boundary or in the historic district; and the Citizens Open Forum where the public can make comments and ask questions on any park activity.

FOR FURTHER INFORMATION CONTACT: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Gettysburg National Military Park Advisory Commission, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: February 4, 2002.

John A. Latschar,

Superintendent, Gettysburg NMP/Eisenhower NHS.

[FR Doc. 02–4338 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–70–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–920 (Final)]

Certain Welded Large Diameter Line Pipe From Mexico

Determination

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Mexico of certain welded large diameter line pipe, provided for in subheadings 7305.11.10, 7305.11.50, 7305.12.10, 7305.12.50, 7305.19.10, and 7305.19.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective January 10, 2001, following receipt of a petition filed with the Commission and Commerce by Berg Steel Pipe Corp. (Panama City, FL); American Steel Pipe Division of American Cast Iron Pipe Co. (Birmingham, AL); and Stupp Corp. (Baton Rouge, LA). The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain welded large diameter line pipe from

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Mexico were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 9, 2001 (66 FR 35811). The hearing was held in Washington, DC, on October 9, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in the investigation to the Secretary of Commerce on February 19, 2002. The views of the Commission are contained in USITC Publication 3487 (February 2002), entitled Certain Welded Large Diameter Line Pipe from Mexico: Investigation No. 731–TA–920 (Final).

Issued: February 19, 2002.

By order of the Commission.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–4346 Filed 2–22–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Under section 122(d)(2) of CERCLA, 42 U.S.C. 9622(d)(2), and 28 CFR 50.7, notice is hereby given that on January 9, 2002, a proposed Consent Decree in two consolidated cases, *United States* v. *Allied Battery Co.,* Civil No. CV–98–N–0446–S, and *United States* v. *CSX Transportation, Inc.,* CV–98–N–2561–S, was lodged with the United States District Court for the Northern District of Alabama.

The United States' Complaints in these actions seek recovery of over $2.1 million in costs incurred by the United States Environmental Protection Agency in conducting a soil cleanup removal action at the Carlie Lee Superfund Site near Birmingham, Alabama. The United States filed its Complaints pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607(a).

The proposed Consent Decree contains a settlement with the remaining Defendants, two Third-party Defendants, and two federal agencies. The Settling Defendants and Third-party Defendants are CSX Transportation, Lucent Technologies, Thompson Tractor Company, BellSouth Corporation, BellSouth Telecommunications, Inc., and Jefferson County, Alabama. The settling federal agencies are the U.S. Department of Defense, including the Defense Reutilization and Marketing Service (''DRMS''). Under the proposed Consent Decree, the settlors collectively agree to pay a total of $978,214.68. The settling Defendants and Third-party Defendants have agreed to pay a total of $608,666.91. The settling federal agencies have agreed to pay $369,547.75.

The Department of Justice will receive comment relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. As a result of the discovery of anthrax contamination at the District of Columbia mail processing center in mid-October, 2001, the delivery of regular first-class mail sent through the U.S. Postal Service has been disrupted. Consequently, public comments which are addressed to the Department of Justice in Washington, D.C. and sent by regular, first-class mail through the U.S. Postal Service are not expected to be received in timely manner. Therefore, comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, and sent: (1) By regular, first-class mail through the U.S. Postal Service, c/o Karen Singer, U.S. Environmental Protection Agency, Region 4, EAD, 61 Forsyth Street, S.E., Atlanta, Georgia, 30303; and/or (2) by facsimile to (202) 353–0296; and/or (3) by overnight delivery, other than through the U.S. Postal Service, to Chief, Environmental Enforcement Section, 1425 New York Avenue, NW, 13th Floor, Washington, DC 20005.

Each communication should refer on its face the *U.S.* v. *CSX Transp.,* CV98–N–2561–S, and D.J. Ref. 90–11–3–1758/1.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Northern District of Alabama, 200 Fed. Bldg., 1800 Fifth Avenue North, Room 200, Birmingham, Alabama, and also at the Region 4 Office of the Environmental Protection Agency, Region 4, 61 Forsyth Street, SE., Atlanta, Georgia.

A copy of the proposed Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202) 616–6584; phone confirmation no. (202) 514–1547.

There is a charge for the copy (25 cents per page reproduction cost). Upon requesting a copy, please mail a check payable to the ''U.S. Treasury'' in the amount of $7.00, to: Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. The check should refer to *U.S.* v. *CSX Transp.,* D.J. No. 90–11–3–1758/1.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. 02–4433 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Under section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9622(d)(2), and 28 CFR 50.7, notice is hereby given that on January 12, 2002, a proposed Consent Decree in *United States* v. *Franc Motors, et al.,* Civil Action No. 3:02CV71(AWT), was lodged with the United States District Court for the District of Connecticut.

In this action, the United States sought recovery of over $1.6 million of costs incurred by the United States Environmental Protection Agency in conducting a removal action at the National Oil Service Superfund Site in West Haven, Connecticut. The United States filed its complaint pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), seeking recovery of over $1.6 million. The complaint named 8 defendants which arranged for the disposal of waste oil at the Site. The proposed Consent Decree resolves the United States' cost recovery claims against all of those defendants. Under the proposed Consent Decree, settling defendants collectively agree to pay over $300,000 in partial reimbursement of the United States' response costs.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. As a result of the discovery of anthrax contamination at the District of Columbia mail processing center in mid-October, 2001, the delivery of regular mail sent through the U.S. Postal Service has been disrupted. Consequently, public comments which are addressed to the Department of Justice in Washington, DC and sent by regular, first-class mail through the U.S.

Postal Service are not expected to be received in a timely manner. Therefore, comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, and sent (1) C/O Eve Vaudo, U.S. E.P.A. Region 1, One Congress Street, Boston, MA 02114–2023; (2) by facsimile to (202) 353–0296; and/or (3) by overnight delivery, other than through the U.S. Postal Service, to Chief, Environmental Enforcement Section, 1425 New York Avenue, NW, 13th Floor, Washington, DC 20005. Each communication should refer on its face to *United States* v. *Franc Motors, et al.,* D.J. Ref. 90–11–3–07333/3.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Connecticut Financial Center, New Haven, CT, and at the Region 1 office of the Environmental Protection Agency, One Congress Stree, Boston, MA. A copy of the proposed Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202) 616–6584; phone confirmation no. (202) 514–1547. There is a charge for the copy (25 cents per page reproduction cost). Upon requesting a copy, please mail a check payable to the ''U.S. Treasury,'' in the amount of amount of five dollars ($5.00) to the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. The check should refer to *United States* v. *Franc Motors, et al.,* D.J. Ref. 90–11–3–07333/3.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–4432 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Pursuant to the Clean Water Act

Notice is hereby given that a proposed Consent Decree in *United States of America and the State of Alabama* v. *The Board of Water and Sewer Commissioners of the City of Mobile, Alabama*, Civ. No. 02–0058–CB–S, and *Mobile Bay Watch, Inc.* v. *The Board of Water and Sewer Commissioners of the City of Mobile, Alabama*, Civ. No. CV–99–0595–CB–S, was lodged on January 24, 2002, with the United States District Court for the Southern District of Alabama.

The proposed Consent Decree would resolve certain claims under sections 301 and 402 of the Clean Water Act, 33 U.S.C. 1251, *et seq.*, against the Board of Water and Sewer Commissioners of the City of Mobile, Alabama (''Board''), through the performance of injunctive measures, the payment of a civil penalty, and the performance of Supplemental Environmental Projects (''SEPs''). The United States, the State of Alabama and Mobile Bay Watch, Inc., allege that the Board is liable as a person who has discharged a pollutant from a point source to navigable waters of the United States without a permit and, in some cases, in excess of permit limitations.

The proposed Consent Decree would resolve the liability of the Board for the violations alleged in the complaints filed in these matters. The proposed Consent Decree would release claims against the Board for performance of injunctive measures to remedy the alleged violations, and for penalties for the violations alleged in the complaints. To resolve these claims, the Board would perform the injunctive measures described in the proposed Consent Decree, including the implementation of a capacity assurance program, a grease control program, and a water quality monitoring program; would pay a civil penalty of $114,000 ($99,000 to the United States Treasury and $15,000 to the State of Alabama); and would perform four SEPs valued at $2.5 million collectively, including the installation of new private sewer laterals in low-income households within the Board's service area, the acquisition of environmentally beneficial parcels of land, and the creation of a water quality monitoring database.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this application. As a result of the discovery of anthrax contamination at the District of Columbia mail processing center in mid-October, 2001, the delivery of regular first-class mail sent through the U.S. Postal Service has been disrupted. Consequently, public comments which are addressed to the Department of Justice in Washington, DC and sent by regular, first-class mail through the U.S. Postal Service are not expected to be received in timely manner. Therefore, comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, and sent: (1) c/o Melissa Heath, Assistant Regional Counsel, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303; and/or (2) by facsimile to (202) 353–0296; and/or (3) by overnight delivery, other than through the U.S. Postal Service, to Chief, Environmental Enforcement Section, 1425 New York Avenue, NW, 13th Floor, Washington, DC 20005. Each communication should refer on its face to *United States* v. *The Board of Water and Sewer Commissioners of the City of Mobile, Alabama,* DJ No. 90–5–1–1–06985.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Southern District of Alabama, 63 South Royal Street, Mobile, AL 36602, and at the Region 4 Office of the Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta GA 30303. A copy of the proposed Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202) 616–6584; phone confirmation no. (202) 514–1547. There is a charge for the copy (25 cents per page reproduction cost). Upon requesting a copy, please mail a check payable to the ''U.S. Treasury'', in the amount of $25.75, to: Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. The check should refer to *United States* v. *The Board of Water and Sewer Commissioners of the City of Mobile, Alabama,* DJ No. 90–5–1–1–06985.

Walker Smith,

Principal Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–4431 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Amendment To Consent Decree in Accordance With the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

In accordance with Department of Justice Policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that on January 17, 2002, a proposed Order to Amend Consent Decree was lodged with the United States District Court for the Eastern District of Pennsylvania in *United states and the Commonwealth of Pennsylvania* v. *Settling Defendants,* Civil Action No. 99–4402.

In 1999, the United States and Settling Defendants entered into a Consent Decree in this case concerning the Malvern TCE Superfund Site (''Site'') in Chester County, Pennsylvania, for conduct of certain response actions at the Site and the payment of certain response costs

therefore. This Consent Decree was entered by the Court on December 13, 1999.

The Consent Decree contains a reservation of rights by the Settling Defendants as to, among other things, claims against the United States ''based on the discovery of information or documentation that * * * the volume of hazardous substances attributable to the United states exceeds the amount agreed to by the Settling Parties * * *.'' Decree paragraph 109(c). Appendix F to the Decree provides a procedure and payment schedule that specifies the response costs on a per-drum basis for such additional waste attributable to the United States.

Additional drums of waste attributable to the United States Department of the Army (''Army'') and to the National Institutes of Health (''NIH'') have been identified. Accordingly, the United States and Settling Defendants have agreed to amendments to the Consent Decree to: (1) Add the Army and NIH as parties to the Consent Decree, thereby resolving potential claims against these Agencies for cleanup costs relating to drums of hazardous waste discovered at the Site; and to (2) reflect that 203 drums have been attributed to the Army, and that 165.60 drums have been attributed to NIH, with a total proposed payment by the United States to the Settling Performing Defendants of $464,506.90, on behalf of these Agencies as their respective shares of the performance and payment obligations to be incurred by Settling Defendants in carrying out response actions required by the Consent Decree. Consistent with the applicable requirement of the Consent Decree, the Commonwealth of Pennsylvania has been consulted and has concurred in the amendments.

The Department of Justice will receive written comments by facsimile transmission (''FAX'') relating to the proposed Order to Amend Consent Decree for thirty (30) days from the date of publication of this Notice. Comments should be sent by FAX to (202) 514–8865, and should be addressed to D. Judith Keith, Environment and Natural Resources Division, Environmental Defense Section, U.S. Department of Justice, Washington, DC, and should refer to *United States and the Commonwealth of Pennsylvania* v. *Settling Defendants,* DOJ. Ref. No. 90–11–6–80.

A copy of the proposed Order to Amend Consent Decree may be obtained by request. Requests should be sent by FAX to (202) 514–8865, and should be addressed to Allison Booker, U.S. Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, and should refer to the proposed Order to Amend Consent Decree in *United States and the Commonwealth of Pennsylvania* v. *Settling Defendants,* DOJ. Ref. No. 90–11–6–80.

Letitia J. Grishaw,

Chief, Environment & Natural Resources Division, Environmental Defense Section.

[FR Doc. 02–4434 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Sprint Corp. and Joint Venture Co., Civil No. 95–1304 (D.D.C.); United States' Notice of Proposed Medication of the Final Judgment

Notice is hereby given that the United States and both Sprint Corporation (''Sprint'') and Equant N.V. (''Equant''), defendants in the above-captioned matter, have entered into a Stipulation to modify the Final Judgment entered by the United States District Court for the District of Columbia on February 16, 1996. In this Stipulation filed with the Court, the United States has provisionally consented to modification of the Final Judgment, but has reserved the right to withdraw its consent pending receipt of public comments.

On July 13, 1995, the United States filed the complaint in this case. The complaint alleged that the sale of 20% of the voting shares of Sprint to France Telecom (''FT'') and Deutsche Telekom A.G. (''DT'') and the formation of a joint venture among Sprint, FT and DT to provide certain international telecommunications services, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, in the markets for international telecommunications services between the United States and France and the United States and Germany, and in the markets for seamless international telecommunications services. At the same time as it filed the Complaint, the United States filed a proposed Final Judgment to resolve the competitive concerns alleged in the Complaint, and a stipulation by defendants and the United States consenting thereto.

At the time of the entry of the Final Judgment, Joint Venture Co. was the proposed joint venture of Sprint, FT and DT. Subsequently, the joint venture was formed and given the name Global One. In January 2000, Sprint, FT and DT agreed to terminate their joint venture, with FT acquiring sole ownership of the former joint venture, but Global One continued to be bound by the Final Judgment as the successor to the joint venture. In July 2001 Global One was acquired by Equant N.V., and FT acquired majority ownership and control of Equant. Therefore, Equant, as the successor to Global One, is now identified as the defendant that was referred to as Joint Venture Co. in the Final Judgment, and is substituted for Joint Venture Co. in the proposed Modified Final Judgment.

The Final Judgment, which was entered by consent of the parties on February 16, 1996, includes various restrictions affecting Sprint and Equant's relationship to FT and DT. These restrictions operated in two distinct phases, lessening over time as competition developed in France and in Germany. The Phase I restrictions, contained in Section III of the Final Judgment, were terminated by the Court on November 2, 1998, pursuant to a stipulation between the United States and the defendants, in recognition of competitive developments in France and Germany. Defendants continue to be subject to the substantive obligations of Section II of the Final Judgment until January 1, 2003. The Section II obligations, which are intended to prevent Equant and Sprint from receiving competitive advantages from their association with FT and DT: (1) Require Equant and Sprint to disclose certain information related to prices, terms and conditions of certain FT and DT telecommunications products and services that are provided in France or in Germany or between France and Germany and the United States and are used by Equant or Sprint; (2) preclude Equant and Sprint from receiving competitively sensitive information from FT and DT that FT and DT obtain from the competitors of Equant and Sprint; and (3) prohibit Equant and Sprint from offering certain services between the United States and France and Germany unless other United States providers also have or can readily obtain licenses from the French and German governments to offer the same service.

The United States and defendants Sprint and Equant have provisionally agreed to modify the Final Judgment because of changed circumstances in the relationship between Equant and Sprint, and FT and DT. In June 2001, FT and DT sold their ownership interests in Sprint's FON stock, which formed the basis of the United States' concern about FT's and DT's acquisition of 10% interests in Sprint, and Sprint sold its Global One ownership interest to FT on February 22, 2000. These events form the basis for the proposed termination of

the Final Judgment with respect to Sprint. Furthermore, DT ceased to be an owner of Global One even before Global One was acquired by Equant, having sold its interest to FT pursuant to an agreement reached on January 26, 2000. Therefore, the Final Judgment is also proposed to be modified to eliminate any obligations related to DT's relationship with Equant. Certain provisions of the Final Judgment applicable to Equant's relationship with FT will remain in force, in order to safeguard against anticompetitive conduct by FT favoring Equant. Other provisions of the Final Judgment relating to FT's relationship to Equant will be terminated because they are redundant of other regulatory requirements or superfluous in light of market developments. The provisions that will remain are the reporting requirements of certain information related to the prices, terms and conditions of FT products and services sold by FT to Equant.

The United States has filed a memorandum with the Court setting forth the reasons it believes modification of the Final Judgment would serve the public interest. Copies of the joint Judgment, the stipulation containing the United States' provisional consent to modification of the Final Judgment, the supporting memorandum, and all additional papers filed with the Court in connection with this motion are available for inspection as the Antitrust Documents Group of the Antitrust Division, U.S. Department of Justice, 325 7th Street, NW., Room 215 North, Liberty Place Building, Washington, DC 20530, and at the Office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 2001. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the duplicating fee set out in Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination to the Department of Justice. Such comments must be received by the Antitrust Division within sixty (60) days of the last publication of notices appearing in the *Wall Street Journal* and *Communications Week International,* and will be filed with the Court by the Department. Comments should be addressed to Lawrence M. Frankel, Acting Chief, Telecommunications Task Force, Antitrust Division, U.S. Department of Justice, 1401 H. St., NW., Suite 8000, Washington, DC 20530.

Constance K. Robinson,

Director of Operations & Merger Enforcement.

[FR Doc. 02–4435 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Financial Services Technology Consortium, Inc.

Notice is hereby given that, on December 31, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Financial Services Technology Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, DirectAdvice, Inc., Hartford, CT has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Financial Services Technology Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On October 21, 1993, Financial Services Technology Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 14, 1993 (58 FR 65399).

The last notification was filed with the Department on September 28, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 2, 2001 (66 FR 65882).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–4438 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology

Notice is hereby given that, on January 7, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, E.I. DuPont de Nemours Company, Circleville, OH and Interconnect Technology Research Institute, Austin, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives disclosing all changes in membership.

On October 7, 1998, National Center for Manufacturing Sciences (NCMS): Advanced embedded Passives Technology filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 22, 1999 (64 FR 3571).

The last notification was filed with the Department on May 23, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 22, 2001 (66 FR 33563).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–4436 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; PKI Forum, Inc

Notice is hereby given that, no January 2, 2002, pursuant to section 6(a)

of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PKI Forum, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, DOD/Federal PKI PMO, Ft. Meade, MD; and e-Scotia, Toronto, Ontario, Canada have been added as parties to this venture. Also, Odyssey Technologies, Ltd., Chennai, India; Protegrity, Inc., Stamford, CT; Securify, Inc., Waltham, MA; and Thinkpulse, Inc., San Jose, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PKI Forum, Inc. intends to file additional written notification disclosing all changes in membership.

On April 2, 2001, PKI Forum, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 3, 2001 (66 FR 22260).

The last notification was filed with the Department on September 27, 2001. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–4437 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–11–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before March 27, 2002 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Brooke Dickson, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730 or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on December 3, 2001 (66 FR 60225). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Customer Request for Information and Order Forms.

OMB number: 3095–NEW.

Agency form number: NA Form 14116.

Type of review: Regular.

Affected public: Individuals and households.

Estimated number of respondents: 130,000.

Estimated time per response: 5 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 10,833 hours.

Abstract: The form is a web-based form to be completed by members of the public who wish to either request printed order forms for copies of genealogical records or to obtain information about NARA's archival holdings or services. Customers who request printed forms indicate the type and quantity of form wanted. Those who need information about NARA's archival holdings choose a subject heading to help describe their request. The form entails no burden other than that necessary to identify the customer, the date, the customer's address, and the nature of the request. This information is used only to facilitate answering the request and is not retained after the request is completed, in accordance with approved record schedules. The information is not used for any subsequent purpose.

Dated: February 14, 2002.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 02–4394 Filed 2–22–02; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee

AGENCY: National Communications System (NCS).

ACTION: Notice of Meeting.

SUMMARY: A meeting of the President's National Security Telecommunications Advisory Committee will be held on Wednesday, March 13, 2002, from 9:00 a.m. to 11:30 a.m. The Business Session will be held at the Department of State, Washington, DC.

The agenda is as follows:

—Call to Order/Welcoming Remarks

—Briefings on Lessons Learned from September 11, 2001, Evolving Threat to National Infrastructures, and Wireless Priority Access Service

—National Communications System Manager's Report

—NSTAC XXV Cycle in Review

—Adjournment

Due to the potential requirement to discuss classified information in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense.

FOR FURTHER INFORMATION CONTACT: Telephone Ms. Marilyn Witcher, (703) 607–6214, or write the Manager, National Communications System, 701 South Court House Road, Arlington, Virginia 22204–2198.

Peter Fonash,

Federal Register Liaison Officer, Technology and Programs Division, National Communications System.

[FR Doc. 02–4353 Filed 2–22–02; 8:45 am]

BILLING CODE 5001–08–M

NATIONAL SCIENCE FOUNDATION

Notice of Intent to Seek Approval to Renew an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by April 26, 2002 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: NSF Surveys to Measure Customer Service Satisfaction.

OMB Number: 3145–0157.

Expiration Date of Approval: September 30, 2002.

Type of Request: Intent to seek approval to renew an information collection.

Abstract

Proposed Project: On September 11, 1993, President Clinton issued Executive Order 12862, ''Setting Customer Service Standards,'' which calls for Federal agencies to provide service that matches or exceeds the best service available in the private sector. Section 1(b) of that order requires agencies to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' The National Science Foundation (NSF) has an ongoing need to collect information from its customer community (primarily individuals and organizations engaged in science and engineering research and education) about the quality and kind of services it provides and use that information to help improve agency operations and services.

Use of the Information

Estimate of Burden: The burden on the public will change according to the needs of each individual customer satisfaction survey; however, each survey is estimated to take approximately 30 minutes per response.

Respondents: Will vary among individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal government; State, local or tribal governments.

Estimated Number of Responses per Survey: This will vary by survey.

*Comments:*Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: February 19, 2002.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 02–4349 Filed 2–22–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Comment Request: National Science Foundation—Applicant Survey

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewed clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collections techniques or other forms of information technology.

DATES: Written comments should be received by April 26, 2002, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@msf/gpv/*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton at (703) 292–7556 or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: ''National Science Foundation Applicant Survey.''

OMB Approval Number: 3145–0096.

Expiration Date of Approval: August 31, 2002.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: The current National Science Foundation Applicant survey has been in use for several years. Data are collected from applicant pools to examine the racial/sexual/disability composition and to determine the source of information about NSF vacancies.

Use of the Information: Analysis of the applicant pools is necessary to determine if NSF's targeted recruitment efforts are reaching groups that are underrepresented in the Agency's workforce and/or to defend the Foundation's practices in discrimination cases.

Burden on the Public: The Foundation estimates about 5,000 responses

annually at 3 minutes per response; this computes to approximately 250 hours annually.

Dated: February 20, 2002.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 02–4390 Filed 2–22–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Intent of Seek Approval to Extend without Revision a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by April 26, 2002, to be assured of consideration. Comments received after that date witll be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wison Boulevard, Suite 295, Arlingon, Virginia 22230; telephone 703–292–7556; or send email ot splimpto@nsf.gov. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Fellowship Applications and Award Forms.

OMB Approval Number: 3145–0023.

Expiration Date of Approval: September 30, 2002.

Type of Request: Intent to seek approval to extend without revision an information collection for three years.

Abstract

Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1861 *et seq.*), as amended, states that ''The Foundation is authorized to award, within the limits of funds made available * * * scholarships and graduate fellowships for scientific study or scientific work in the mathematical physical, medical, biological, engineering, social, and other sciences at appropriate nonprofit American or nonprofit foreign institutions selected by the recipient of such aid, for stated periods of time.''

The Foundation Fellowship Programs are designed to meet the following objectives:

- To assure that some of the Nation's most talented students in the sciences obtain the education necessary to become creative and productive scientific researchers.
- To train or upgrade advanced scientific personnel to enhance their abilities as teachers and researchers.
- To promote graduate education in the sciences, mathematics, and engineering at institutions that have traditionally served ethnic minorities.
- To encourage pursuit of advanced science degrees by students who are members of ethnic groups traditionally under-represented in the Nation's advanced science personnel pool.

The list of fellowship award programs sponsored by the Foundation includes, but may not be limited to, the following:

NSF Graduate Research Fellowships

Graduate Fellowships
Minority Graduate Fellowships
Women in Engineering and Computer & Information Science
Earth Sciences Postdoctoral Research Fellowships
Postdoctoral Research Fellowships in Chemistry
Mathematical Sciences Postdoctoral Research Fellowships
NSF–NATO Postdoctoral Fellowships and Supporting Engineering
Minority Postdoctoral Research Fellowships and Supporting Activities
Postdoctoral Research Fellowships in Microbial Biology
Postdoctoral Research Fellowships in Biological Informatics
Ridge Inter-Disciplinary Global Experiments
Advanced Study Institute Travel Awards

International Opportunities for Scientists and Engineers

Japan Research Fellows
North American Research fellows
International Research fellows Ethics and Values Fellowship Awards.

Estimate of Burden: These are annual award programs with application deadlines varying according to the fellowship program. Public burden may also vary according to program, however, it is estimated that each submission is averaged to be 12 hours per respondent.

Respondents: Individuals.

Estimated Number of Responses: 13,000.

Estimated Total Annual Burden on Respondents: 156,000 hours.

Frequency of Responses: Annually.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: February 20, 2002.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 02–4391 Filed 2–22–02; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Enforcement Program and Alternative Dispute Resolution; Workshop and Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of workshop and extension of comment period.

SUMMARY: The NRC is convening a workshop to more fully explore the potential use of Alternative Dispute Resolution (ADR) in its enforcement program. This workshop is in response to the notice published in the **Federal Register** on December 14, 2001; 66 FR 64890, that announced NRC's intent to evaluate the use of ADR in its enforcement program. This notice also announces that NRC is extending the comment period for the December 14, 2001, notice to March 29, 2002. The objectives of the workshop will be to develop a better understanding of the range of ADR techniques, how they might apply to specific NRC enforcement scenarios, and the potential advantages and disadvantages of the use of ADR in various parts of the NRC enforcement process. The format of the workshop will be a facilitated discussion among the invited

participants of interests that may be affected by the use of ADR in the NRC enforcement process, as well as expert ADR practitioners from other agencies and private practice. The list of invited participants, as well as the agenda for the workshop, will be posted at the NRC Web site (*www.nrc.gov*) at url *http://www.nrc.gov/what-we-do/regulatory/enforcement/public-involvement.html.*

Invited participants currently include representatives from the Union of Concerned Scientists, the Nuclear Energy Institute, the Environmental Protection Agency's Conflict Prevention and Resolution Center, ADR experts from other federal agencies and private practice, and participants from the nuclear energy bar and the whistleblower protection bar. Representatives from the NRC Office of Enforcement will also participate in the discussion. The workshop will be open to the public. Although the focus of the discussion will be among the invited participants, the audience will be able to engage in the discussion at selected points during the workshop.

DATES: The workshop will be held on March 12, 2002, from 9 a.m. to 5 p.m. The comment period is extended to March 29, 2002.

ADDRESSES: The workshop will be held at the Kentlands Mansion, 320 Kent Square Road, Gaithersburg, MD 20878. Directions to Kentlands Mansion will be available at the NRC Web site address cited above. In order to optimize the limited space at the facility, it would be helpful if those planning to attend the workshop would notify Mr. Terrence Reis, Senior Enforcement Specialist, Office of Enforcement, U.S. Nuclear Regulatory Commission, by March 4, 2002. Mr. Reis's contact information is contained below in the **FOR FURTHER INFORMATION CONTACT** section.

In terms of the extended public comment period, submit written responses to the notice published on December 14, 2001, to Mr. Michael Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. to 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852. Comments also may be sent electronically to Mr. Lesar, e-mail *mtl@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Terrence Reis, Senior Enforcement Specialist, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 (301) 415–3281, e-mail *txr@nrc.gov* or Francis X. Cameron, NRC ADR Specialist, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–1642, e-mail *fxc@nrc.gov.*

SUPPLEMENTARY INFORMATION: ''ADR'' is a term that refers to a number of voluntary processes, such as mediation and facilitated dialogues, that can be used to assist parties in resolving disputes and potential conflicts. The Administrative Dispute Resolution Act of 1996 (ADRA) encourages the use of ADR by Federal agencies, and defines ADR as ''any procedure that is used to resolve issues in controversy, including but not limited to, conciliation, facilitation, mediation, fact finding, mini trials, arbitration, and use of an ombudsman, or any combination thereof.'' 5 U.S.C. 571(3). These techniques involve the use of a neutral third party, either from within the agency or from outside the agency, and are typically voluntary processes in terms of the decision to participate, the type of process used, and the content of the final agreement. Federal agency experience with ADR has demonstrated that the use of these techniques can result in the more efficient resolution of issues, more effective outcomes, and improved relationships between the agency and the other party.

The NRC has a general ADR Policy, 57 FR 36678, August 14, 1992 that supports and encourages the use of ADR in NRC activities. In addition, the NRC has used ADR effectively in a variety of circumstances, including rulemaking and policy development, and EEO disputes. There has been no systematic evaluation of the need for ADR in the enforcement process. As part of the NRC's participation in an interagency process in 1998 by the Clinton Administration to encourage a broader use of ADR by Federal agencies, and an inquiry in regard to the use of ADR in a specific enforcement case, have caused the NRC to consider whether a new, specific ADR policy would be beneficial in the enforcement area.

The Commission previously requested public comment on the potential use of ADR in the Commission's enforcement process at 66 FR 64890, on December 14, 2001. In that Notice, the Commission identified a number of issues on which it specifically requested comment:

1. Is there a need to provide for additional avenues, other than that provided for in 10 CFR 2.203, for the use of ADR in NRC enforcement activities?

2. What are the potential benefits of using ADR in the NRC enforcement process?

3. What are the potential detriments of using ADR in the NRC enforcement process?

4. What would be the scope of disputes for which ADR techniques could be utilized?

5. At what points in the existing enforcement process might ADR be used?

6. What types of ADR techniques might most effectively be used in the NRC enforcement process?

7. Does the nature of the existing enforcement process for either reactor or materials licensees limit the effectiveness of ADR?

8. Would any need for confidentiality in the ADR process be perceived negatively by the public?

9. For policy reasons, are there any enforcement areas where it shouldn't be used, e.g., wrongdoing, precedent-setting areas?

10. What factors should be considered in instituting an ADR process for the enforcement area?

11. What should serve as the source of neutrals for use in the ADR process for enforcement?

Several responses have been received on these and other issues in response to the request for public comment. The NRC is now taking two actions:

1. The NRC is extending the public comment period on the original (December 14, 2001) **Federal Register** Notice to March 29, 2002; and

2. The NRC is convening a workshop to more fully explore the potential use of ADR in its enforcement program. The objectives and format for the workshop are stated in the **SUMMARY** section of this notice.

Francis X. Cameron, the Commission's Alternative Dispute Resolution Specialist, will be the convener and facilitator for the workshops. Questions about participation may be directed to the facilitator, Francis X. Cameron. Copies of the original **Federal Register** Notice requesting comment on the potential use of ADR in the NRC enforcement process, the NRC's existing ADR policy statement, the public comments received, the agenda for the workshop, and the roundtable participants, can be obtained at the NRC Web site (*www.nrc.gov*) at url *http://www.nrc.gov/what-we-do/regulatory/enforcement/public-involvement.html*

Copies also can be obtained from either of the NRC contacts identified at the beginning of this notice. The

workshop commentary will be transcribed and made available to the participants and the public.

Dated at Rockville, Maryland, this 19th day of February, 2002.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

[FR Doc. 02–4380 Filed 2–22–02; 8:45 am]

BILLING CODE 7590–01–M

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 8 a.m., Monday, March 4, 2002; 8:30 a.m., Tuesday, March 5, 2002.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: March 4–8 a.m. (Closed); March 5–8:30 a.m. (Open).

MATTERS TO BE CONSIDERED

Monday, March 4–8 a.m. (Closed)

1. Financial Performance.
2. Strategic Planning.
3. Preliminary Annual Performance Plan Targets FY 2003.
4. Personnel Matters and Compensation Issues.

Tuesday, March 5–8:30 a.m. (Open)

1. Minutes of the Previous Meeting, February 4–5, 2002.
2. Remarks of the Postmaster General and CEO.

Fiscal Year 2001 Comprehensive Statement on Postal Operations.

4. Consideration of Borrowing Resolution.
5. Capital Investment.

a. Burlingame, California, Peninsula Delivery Distribution Center.

6. Tentative Agenda for the April 8–9, 2002, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,

Secretary.

[FR Doc. 02–4537 Filed 2–21–02; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT. [67 FR 7208, February 15, 2002]

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, February 21, 2002, at 10 a.m.

CHANGE IN THE MEETING: Additional Item.

The following item has been added to the closed meeting scheduled for Thursday, February 21, 2002: Consideration of amicus participation.

Commissioner Glassman, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: February 20, 2002.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–4509 Filed 2–21–02; 8:47 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 25, 2002: An open meeting will be held on Wednesday, February 27, 2002 at 10 a.m., in Room 1C30, the William O. Douglas Room, and closed meetings will be held on Wednesday, February 27, 2002 at 11 a.m. and Thursday, February 28, 2002 at 10 a.m.

The subject matter of the open meeting scheduled for Wednesday, February 27, 2002, will be: The Commission will hear oral argument on an appeal by Sandra K. Simpson, formerly an associated person with a registered broker-dealer, from the decision of an administrative law judge. For further information, contact Roy Sheetz at (202) 942–0950.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (8), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (8), 9(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matter of the closed meeting scheduled for Wednesday, February 27, 2002, will be: Post-argument discussion.

The subject matter of the closed meeting scheduled for Thursday, February 28, 2002, will be: Inspection report; institution and settlement of injunctive actions; institution and settlement of administrative proceedings of an enforcement nature; and formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: February 20, 2002.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–4510 Filed 2–21–02; 11:47 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45457; File No. SR–NASD–2002–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Anti-Money Laundering Compliance Programs

February 19, 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 February 15, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, NASD Regulation, Inc. (''NASD Regulation'') 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 NASD Regulation. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

NASD Regulation proposes to establish NASD Rule 3011, Anti-Money Laundering Compliance Program. As further discussed below, the USA PATRIOT Act requires financial institutions, including broker-dealers, by April 24, 2002, to establish and implement anti-money laundering compliance programs designed to ensure ongoing compliance with the requirements of the Bank Secrecy Act and the regulations promulgated thereunder. The proposed rule change prescribes the minimum standards required for each member firm's anti-money laundering program. The text of the proposed rule change is below. Proposed new language is in italics.

3011. Anti-Money Laundering Compliance Program

On or before April 24, 2002, each member shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, et seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each member organization's anti-money laundering program must be approved, in writing, by a member of senior management. The anti-money laundering programs required by this Rule shall, at a minimum,

(a) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(b) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(c) Provide for independent testing for compliance to be conducted by member personnel or by a qualified outside party;

(d) Designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program; and

(e) Provide ongoing training for appropriate personnel.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Introduction

The purpose of the proposed rule change is to establish minimum standards for the anti-money laundering programs that broker-dealers are required to develop and implement under section 352 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (''USA PATRIOT Act''). [3] The USA PATRIOT Act, which was signed into law by President Bush on October 26, 2001, is designed to deter and punish terrorists in the United States and abroad and to enhance law enforcement investigating tools by prescribing, among other things, new surveillance procedures, new immigration laws, and new and more stringent anti-money laundering laws.

Title III of the USA PATRIOT Act, referred to as the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 (''Money Laundering Act''), focuses on strengthening the anti-money laundering provisions put into place by earlier legislation, particularly with respect to crimes by foreign nationals and foreign financial institutions. The Money Laundering Act imposes certain obligations on broker-dealers through new anti-money laundering provisions and amendments to the Bank Secrecy Act (''BSA''). [4] Among other things, broker-dealers will have to implement anti-money laundering programs (as described below), prepare and file suspicious activity reports, and follow new know-your-customer procedures. Broker-dealers will be required to comply with these new obligations in addition to continuing to comply with existing BSA reporting and recordkeeping requirements. [5]

Anti-Money Laundering Programs

Section 352 of the Money Laundering Act requires all financial institutions, including broker-dealers, to develop and implement anti-money laundering compliance programs on or before April 24, 2002. Section 352 requires the compliance programs, at a minimum, to establish (1) the development of internal policies, procedures, and controls, (2) the designation of a compliance officer with responsibility for a firm's anti-money laundering program, (3) an ongoing employee training program, and (4) an independent audit function to test the effectiveness of the anti-money laundering compliance program. Section 352 further allows the Secretary of the Department of Treasury, at its discretion, to establish minimum standards for the anti-money laundering programs.

The legislative history of the USA PATRIOT Act explains that the requirement to have an anti-money laundering compliance program is not a ''one-size-fits-all'' requirement. The general nature of the requirements reflects Congress' intent that each financial institution should have the flexibility to tailor the anti-money laundering programs to fit its business, taking into account factors such as size, location, activities of the firm's business, and the risks or vulnerabilities to money laundering in the firm. This flexibility is designed to ensure that all entities covered by the statute, from the very large financial institutions to the small firms, have in place policies and procedures to monitor for anti-money laundering compliance. [6]

The proposed rule change, consistent with Section 352, would require member firms to implement anti-money laundering programs and would set

[3] Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107–56, 115 Stat. 272 (2001).

[4] 31 U.S.C. 5311, *et seq.*

[5] Rule 17a–8 under the Act requires broker-dealers to comply with the recordkeeping and reporting requirements of the BSA and related regulations, including the obligation to file reports and make and preserve records in connection with certain transactions generally exceeding $10,000 and involving currency or the physical transport of currency into or out of the United States. 17 CFR 240.17a–8.

[6] *See USA PATRIOT Act of 2001: Consideration of H.R. 3162 Before the Senate* (October 25, 2001) (statement of Sen. Sarbanes); *Financial Anti-Terrorism Act of 2001: Consideration Under Suspension of Rules of H.R. 3004 Before the House of Representatives* (October 17, 2001) (statement of Rep. Kelly) (provisions of the Financial Anti-Terrorism Act of 2001 were incorporated as Title III in the USA PATRIOT Act.).

forth minimum standards for such programs. The standards established by the proposed rule change are substantially equivalent to those found in the existing bank anti-money laundering program rules.[7] Consistent with the USA PATRIOT Act, the proposed rule change would require firms to develop and implement a written anti-money laundering compliance program by April 24, 2002. The program would need to be approved in writing by a member of senior management and be reasonably designed to achieve and monitor the member's ongoing compliance with the requirements of the BSA and the implementing regulations promulgated thereunder. The proposed rule change would require firms, at a minimum, to (1) establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of suspicious transactions, (2) establish and implement policies, procedures, and internal controls reasonably designed to assure compliance with the BSA and implementing regulations, (3) provide for independent testing for compliance to be conducted by member personnel or by a qualified outside party, (4) designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program, and (5) provide ongoing training for appropriate personnel.

Prior to implementation of the proposed rule change, NASD Regulation anticipates providing guidance in a *Notice to Members* to assist member firms in developing an anti-money laundering program that fits their business model and needs.[8]

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[9] which requires among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the proposed rule change is designed to accomplish these ends by establishing the minimum requirements for anti-money laundering compliance programs of member firms. These programs are designed to help identify and prevent money laundering abuses that can affect the integrity of the U.S. capital markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD–2002–24 and should be submitted by March 18, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–4345 Filed 2–22–02; 8:45 am]

BILLING CODE 8010–01–P

[7] *See e.g.,* 12 CFR 208.63.

[8] On February 12, 2002, the Securities Industry Association Anti-Money Laundering Committee released a *Preliminary Guidance for Deterring Money Laundering Activity*. In general, the guidance discusses key elements for a broker-dealer to consider in developing an effective anti-money laundering program.

[9] 15 U.S.C. 78o–3(b)(6).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45454; File No. SR–NYSE–2001–43]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the New York Stock Exchange, Inc. Amending Paragraph (1) of the Guidelines to Exchange Rule 105 to Permit Approved Persons of Specialists To Act as a Specialist With Respect To an Option on a Specialty Stock

February 15, 2002.

I. Introduction

On August 21, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') 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 amend paragraph (1) of the Guidelines to NYSE Rule 105 to permit an approved person of a specialist to act as a specialist or primary market maker with respect to an option on a stock in which the NYSE specialist is registered as such on the Exchange (''specialty stock''), provided that the requirements of the NYSE Rule 98 exemption program are met. The Exchange filed Amendment No. 1 to the proposed rule change on December 4, 2001.[3] The proposed rule change, as amended by Amendment No. 1, was published for comment in the **Federal Register** on December 12, 2001.[4] The Commission received two comment letters on the proposed rule change.[5] This order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated December 3, 2001 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 45136 (December 6, 2001), 66 FR 64328.

[5] *See* letters to Jonathan G. Katz, Secretary, Commission, from Edward J. Joyce, President and Chief Operating Officer, Chicago Board of Options Exchange, Inc. (''CBOE''), dated January 17, 2002

Continued

approves the proposed rule change, as amended.

II. Description of the Proposal

Currently, NYSE Rule 105 provides that an ''approved person'' (*i.e.,* an affiliate in a control relationship) of a NYSE specialist organization may trade options based on a specialty stock only for hedging purposes. If the approved person establishes a system of internal controls and information barriers pursuant to NYSE Rule 98, however, the approved person may engage in proprietary trading of options based on the specialist's specialty stock without being restricted solely to hedging transactions. In addition, pursuant to Guideline (1) to NYSE Rule 105, approved persons of NYSE specialists may act as competitive or non-primary market makers in options based on a specialty stock if NYSE-approved Rule 98 information barriers have been established. An approved person of a specialist may not, however, act as a specialist or primary market maker with respect to an option based on a specialty stock.

The Exchange now proposes to amend paragraph (1) of the Guidelines to NYSE Rule 105 to permit an approved person of a specialist to act as a specialist or primary market maker with respect to an option based on a specialty stock, provided that NYSE Rule 98 information barriers are established and approved by the Exchange.

III. Summary of Comments

The Commission received two comment letters on the proposed rule change.[6] Both commenters, CBOE and Knight, support the general objective of the proposed rule change, but disagree on whether an approved person's ability to act in a market making capacity with regards to options based on a specialty stock should be predicated on establishing Exchange-approved internal controls and information barriers under NYSE Rule 98.

CBOE supports the proposed rule change because it could: (1) enable CBOE's designated primary market makers (''DPMs'') to acquire more capital through combinations with broker-dealers that own NYSE specialists firms; and (2) enable NYSE specialists to become better capitalized through combinations with firms containing large options specialist firms. CBOE predicates its support for the proposed rule change upon the ''strict separation'' between the options specialist firm and the NYSE specialist firm. CBOE believes that this strict separation between the options specialist firm and the NYSE specialist firm should prevent side-by-side trading[7] in a stock and its overlying option.

Knight generally supports the proposed rule change and agrees with NYSE that ''consolidation within the securities industry makes it likely that large, well-capitalized, well-regulated organizations may seek to conduct distinct business operations among several affiliated entities.'' However, Knight does not believe that (1) information barriers between the NYSE specialist and its approved person regarding trading and position information; (2) the separation of each entity's daily business activities with its own staff; and (3) trade decisions independent of the other entity should be preconditions for an approved person to act in a primary market maker capacity on options based on the specialist's specialty stock. Instead, Knight believes that communication between separate but affiliated business units engaged in both stock and option market making would grant a firm the ability to better risk manage its inventory and thus enable the firms to make deeper and more liquid markets. Further, Knight believes that the NYSE and the five national options exchanges are equipped with the necessary regulatory processes to monitor for any potential wrongdoing that could result from an entity's market making in a stock and its option.

IV. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.

Last year, the Commission approved an NYSE proposal to permit NYSE specialists to act as competitive or non-primary market makers in options based on the NYSE specialist's specialty stock so long as NYSE Rule 98 information barriers were established and approved.[10] In that order, the Commission noted the regulatory concerns that arise with integrated market making. Specifically, the Commission noted that integrated market making raises the concern that an integrated entity could unfairly use non-public market information to its advantage, or that an integrated entity could easily engage in improper conduct, such as manipulating the price of either the stock or the option to create unfair advantages that would be hard, if not impossible, to surveil.[11] Further, the Commission noted concerns about the potential conflicts of interest that may arise when an integrated entity has an obligation to make markets in both an option and its underlying equity. Finally, the Commission noted its concern about an exchange's ability to effectively surveil the trading practices of integrated entities.

When considering an integration proposal, the Commission must balance the potential improvements in the quality of the markets for the stocks and their related options against the competitive, regulatory, and surveillance concerns.[12] In this regard, the Commission must consider whether an integrated market making proposal would permit the integrated entities to possess undetectable, material non-public market information, which could give either the stock specialist or the related options specialist or market maker a trading advantage over other market participants. Thus, the Commission must evaluate the extent of the proposed integration, as well as the characteristics of the market center putting forth the proposal.

In the present proposed rule change, the Exchange seeks to permit its

(''CBOE Letter''); and Mathew D. Wayne, Chief Legal Officer, Knight Financial Products LLC (''Knight''), dated December 21, 2001 (''Knight Letter'').

[6] *Id.*

[7] The Commission notes that side-by-side trading generally refers to the practice of trading an equity security and its related option at the same physical location. The proposed rule change also implicates the practice of integrated market making, which refers to the practice of the same person or firm making markets in an equity security and its related options.

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] Securities Exchange Act Release No. 44175 (April 11, 2001), 66 FR 19825 (April 17, 2001).

[11] Previously, Commission staff has noted that substantial profits could be made from options positions as a result of small movements in the price of the underlying stock. Further, the staff has noted the relative ease by which the price of the underlying security could be moved and the difficulty in detecting improprieties associated with small price movements. SEC, Report of the Special Study of the Options Markets, H.R. Rep. No. IFC 3, 96th Cong. 1st sess. (Comm. Print 1978) (''Options Study'').

[12] See Options Study, *supra* note 11. *See also* Securities Exchange Act Release No. 22026 (May 8, 1985), 50 FR 20310 (May 15, 1985).

specialists to be affiliated with specialists and market makers that act as such with regards to options based on the NYSE specialist's specialty stock. The NYSE's proposal seeks to permit a more extensive form of integrated market making. The NYSE, however, seeks to limit the concerns raised by integrated market making by requiring the affiliated entities to establish strict information barriers designed to prevent the flow of non-public information. These information barriers must be approved by the NYSE and are subject to annual review by the NYSE.

Specifically, the related entities must organize their respective operations in such a way that the activities of each entity are clearly separate and distinct. The Guidelines to Exchange Rule 98 set forth the requirements to be followed by the related entities to be considered clearly separate and distinct. For example, Guideline (b)(i) requires organizational separation of the specialist and approved person and that the specialist must function as an entirely freestanding entity responsible for its own trading decisions. Guideline (b)(ii) requires the respective management structures of the specialist and the approved person to be organized in such a manner as to prevent the management of the approved person from exerting any influence on particular trading decision of the specialist. Guidelines (b)(iii) and (b)(iv) require the establishment of procedures to preserve confidentiality of trading information. In addition, Guideline (b)(iii) specifically requires the establishment of procedures to ensure the confidentiality of the specialist's book. Finally, the Guidelines require that the specialist and approved person maintain, among other things, separate books and records, financial accounting and capital requirements.

The Commission believes that the Exchange has established appropriate procedures in the Guidelines to address the regulatory issues raised by the proposed rule change. The requirement of clearly separate and distinct organizations, along with the other informational barriers and restrictions, should prevent Exchange specialists and their related options market makers from sharing restricted, non-public market information. Further, NYSE Rule 98 requires the Exchange to review and approve the organizational structure and information barriers of the integrated entities. The Commission notes that the Exchange has had extensive experience reviewing its Rule 98's organizational requirements and information barriers and thus should be able to ensure that the integrated entities do not improperly use their affiliations to their advantage. In addition, the Exchange has verified that organizational separation and information barriers must be established and maintained between an Exchange specialist, any approved person of the specialist that acts as a market maker in an option based on the specialist's specialty stock, and any other persons affiliated with them.[13]

The Commission continues to expect the Exchange to assess, as it gains experience with integrated market making, whether any other informational barriers are necessary to prevent the flow of market information between the related entities. Of course, any new information barriers proposed would have to be submitted to the Commission for approval. The Commission also expects that the Exchange will continue to surveil the integrated entities to ensure that the information barriers and organizational structure continue to prevent the flow of non-public market information.

In the previous order, the Commission noted that because the NYSE is the primary market for many equity securities underlying options, concerns were raised about an integrated organization being able to dominate the markets of both the specialty stock and its related options. Specifically, an integrated entity may by virtue of its positions as specialists in a stock and its related options could control the pricing and liquidity of both markets. The Commission believes the requirement that the related entities maintain complete organizational separation and prohibit the sharing of market information should prevent either entity from using its affiliation to control the pricing and liquidity of either market.

The Commission believes that the proposal should provide benefits to the markets. For example, the number of entities that may act as specialists or primary market makers in options based on a specialist's specialty stock may increase as a result of this proposal. Now, entities that have been prohibited from acting as primary options market makers because of the restrictions in Paragraph (1) of NYSE Rule 105 would be permitted to act in this capacity. This could lead to increased competition and liquidity in the options market.

In conclusion, the Commission believes that the Exchange has sufficiently minimized the potential for manipulative and improper trading conduct by requiring strict organizational separation and information barriers. Therefore, the Commission believes that the potential improvements to liquidity and quality of the markets outweigh the potential regulatory concerns.

For these reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act.[14]

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NYSE–2001–43), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–4344 Filed 2–22–02; 8:45 am]

BILLING CODE 8010–01–P

[13] A specialist may be associated with more than one approved person. For example, a specialist may be controlled by a parent organization, which may also control other organizations. If any other organization controlled by the parent acts as a specialist or engages in market making activities in options based on the specialist's specialty stock, organizational separation and information barriers would have to be established between all entities, *i.e.,* the specialist, the parent company and the related options market making entities. *See* Securities Exchange Act Release No. 44175 (April 11, 2001), 66 FR 19825, 19827, n. 14 (April 17, 2001).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27492]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

February 15, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by

March 12, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After March 12, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

SCANA Corporation, et al.

[70–9521]

SCANA Corporation (''SCANA''), a registered holding company, and South Carolina Electric & Gas Company (''SCE&G''), one of its public-utility company subsidiaries, both at 1426 Main Street, Columbia, South Carolina 29201, have filed a post-effective amendment to a previously submitted application-declaration (''Prior Application'') under section 11(b)(1) of the Act.

By order dated February 9, 2000,[1] the Commission authorized SCANA, then a public-utility holding company claiming an exemption from registration under section 3(a)(1) of Act, to acquire Public Service Company of North Carolina, Incorporated, a gas public-utility company operating in North Carolina. In the Prior Order, the Commission allowed SCANA to retain all of the combined company's nonutility operations except for a bus transit system (''Bus Service'') being operated in South Carolina by SCE&G and a forty-nine percent membership interest in Palmetto Lyme, LLC, a company engaged in the sale of lime.[2] SCANA conceded that retention of the Bus Service would not be consistent with the standards of section 11(b)(1) of the Act, and proposed to divest it.

On February 24, 2000, the City of Columbia, South Carolina (''City'') filed a Petition for Clarification or Review of the Prior Order (''Petition''). In the Petition, and its subsequently filed pleadings, the City questions only the Commission's decision to require the divestiture of the Bus System. Specifically, the City contends that SCANA is required under South Carolina law to operate the Bus System and that the Bus Service serves important State and/or community interests.

In its post-effective amendment, SCANA states that it has been negotiating for the City to take over the Bus System. The company states that an agreement has been reached regarding the basic terms for the transfer, and they are as follows:

- The City will discharge SCE&G's obligation to provide a public transit system in Columbia, South Carolina, and the assets of the Bus System will be transferred to the City;
- SCE&G and the City will enter into a thirty-year electric and gas franchise;
- SCE&G will pay the City for the franchise an initial fee of $15 million in four quarterly installments beginning at the time of the transfer of the Bus System and an additional annual fee of $2.47 million for the first seven years of the franchise;
- SCE&G will convey 6.98 acres of property currently used in connection with the transit system as a parking facility for the buses, in a condition compliant with current state and federal regulations;
- SCE&G will convey the historic Columbia Canal and Hydroelectric Plant (''Plant'') to the City, and enter into collateral agreements regarding the Plant; and
- SCE&G and the City will enter into a new water contract for withdrawals from Lake Murray for the terms of the electric and gas franchise.

SCANA requests that the Commission grant the company a one-year extension of time to divest the Bus System. The company states that this additional time is necessary to allow: (1) the City to complete due diligence regarding the transaction; (2) final agreements to be executed by SCANA, SCE&G, and the City; and (3) SCANA to obtain the necessary state and federal approvals.

Progress Energy Inc., et al.

[70–9909]

Progress Energy Inc. (''Progress''), a registered holding company, Carolina Power & Light Company (''CP&L'') and North Carolina Natural Gas Corporation (''NCNG''), both public utility subsidiaries of Progress, all located at 410 South Wilmington Street, Raleigh, North Carolina 27602, and Florida Power Corporation (''Florida Power''), a utility subsidiary of Progress, One Progress Plaza, St. Petersburg, Florida 33701 (collectively, ''Applicants''), have filed a post effective amendment (''Amendment'') under sections 6(a), 7, and 12(b) of the Act and rules 45, 53 and 54 under the Act to an application-declaration previously filed.

Progress requests authority to modify existing financing orders to: (1) Increase from $5 billion to $7.5 billion the aggregate amount of common stock, preferred stock or other forms of preferred securities and unsecured long-term debentures having maturities of up to 50 years (collectively, ''Long-term Securities'') that Progress may issue and have outstanding at any time through September 30, 2003 (''Authorization Period''); (2) eliminate a $6 billion overall limit for the aggregate principal amount that Progress may have outstanding at any time for short-term debt, debentures, and indebtedness incurred by Progress to finance its acquisition of the issued and outstanding common stock of Florida Progress (''Acquisition Debt'') (collectively, ''Overall Indebtedness Limit'') (short-term debt will remain limited by $2.5 billion as authorized in the Financing Orders, acquisition debt will remain $3.5 billion, and debentures will be included in the $7.5 billion limit for Long-term Securities requested in this Amendment); and (3) increase from $750 million to $2 billion the principal or stated amount of guarantees that Progress may provide at any one time with respect to the obligations of its subsidiaries.

By previous orders dated December 12, 2000 and September 20, 2001 (HCAR Nos. 27297 and 27440, respectively) (''Financing Orders''), Progress, its direct and indirect nonutility subsidiaries, and its utility subsidiaries, which are CP&L, NCNG, and Florida Power, (collectively, ''Utility Subsidiaries''), are authorized to engage in a program of external financing and intrasystem financing, to organize and acquire the equity securities of specified types of new subsidiaries, to pay dividends out of capital or unearned surplus, and to engage in other related financial and structural transactions from time to time through the Authorization Period. Except for the modifications described above, Applicants do not seek any other changes or modifications to the terms, conditions or limitations applicable under the Financing Orders.

Progress states that it will maintain common equity as a percentage of consolidated capitalization (inclusive of short-term debt) at 30% or above during the Authorization Period. Accordingly, Progress will not issue any securities unless, on a *pro forma* basis to take into account the issuance of such securities and the application of proceeds, common equity as a percentage of consolidated capitalization will remain at or above 30%. In addition, Progress will maintain common equity as a

[1] HCAR No. 27133 (''Prior Order'').

[2] The Commission reserved jurisdiction over the retention of Palmetto, pending completion of the record. *See* Prior Order.

percentage of capitalization of each of its three Utility Subsidiaries at 30% or above during the Authorization Period.

As of September 30, 2001, Progress's consolidated capitalization (on a *pro forma* basis in order to take into account the issuance of long-term debt securities after September 30, 2001) consisted of 38.0% common equity, 0.6% preferred stock, 56.6% long-term debt and 4.8% short-term debt. As of September 30, 2001, common equity as a percentage of capitalization of CP&L, Florida Power and NCNG was equal to 45.5%, 55.3% and 68.6%, respectively.

Progress states that the increase in Long-term Securities is needed because it had as of November 30, 2001, issued a total of $4,534,800,000 of long-term securities ($528,100,000 of common stock and $4,006,700,000 of long-term debt, including $3,200,000,000 of term notes issued to refinance debt incurred by Progress in connection with the acquisition of Florida Progress). Progress contemplates the need to issue additional Long-Term Securities during the remainder of the Authorization Period to retire short-term debt, to fund capital programs of its subsidiaries, to finance investments in new nonutility ventures (including, in particular, exempt wholesale generators (''EWGs'') that are under development or planned), and for other general corporate purposes. Progress forecasts the need for additional long-term financing of at least $1.75 billion through the end of 2003.

Alabama Power Company, et al.

[70–10009]

Alabama Power Company (''Alabama''), 600 North 18th Street, Birmingham, Alabama 35291, Georgia Power Company (''Georgia''), 241 Ralph McGill Boulevard, N.E., Atlanta, Georgia 30308, Gulf Power Company (''Gulf''), One Energy Place, Pensacola, Florida 32520, Mississippi Power Company (''Mississippi''), 2992 West Beach, Gulfport, Mississippi 39501, and Savannah Electric and Power Company (''Savannah''), 600 East Bay Street, Savannah, Georgia 31401 (collectively, ''Applicants''), all wholly owned direct public-utility subsidiary companies of The Southern Company, a registered holding company, have filed an application with the Commission under sections 9(a) and 10 of the Act.

Previously, Applicants acquired, through purchases and leases, coal hopper railroad cars for use in transporting coal in dedicated unit train service to the respective company's coal-fired generating plants.[3] These railcars were acquired for Applicants' use based upon their anticipated coal needs. Applicants state that, at any given time, an Applicant may have a need for a lesser or greater number of railcars than is currently available, and that during surplus periods it may be desirable and economically advantageous to lease or sublease excess railcars to nonaffiliates.

Applicants request authority, through December 31, 2007, to lease or sublease to nonaffiliates, railcars that are not needed to transport their fuel. All of the proposed leases or subleases would be at market rates for a duration of one year or less and give the respective Applicant the right of termination, upon reasonable notice, permitting the return of the cars to customer service, if necessary. No more than 2,500 railcars would be leased or subleased at any one time.

Revenues realized from the proposed transactions would be credited against the respective Applicant's costs as owner or lessee (as applicable) of the railcars, and reflected accordingly in its ratemaking provisions, except to the extent the regulatory authority having jurisdiction over the matter authorizes a different treatment.

PNM Resources Inc.

[70–10043]

PNM Resources, Inc. (''PNM Resources''), a public utility holding company exempt under section 3(a)(1) by rule 2 and its wholly owned public utility subsidiary company, Public Service Company of New Mexico (''PNM'') (collectively, ''Applicants'') both located at Alvarado Square, Albuquerque, NM 87158, request authority under sections 9(a)(2) and 10 of the Act to acquire the voting securities of DCC Project Finance Two, Inc. (''DCC Project Finance'')[4] from Dana Commercial Credit Corporation (''DCCC'').[5] PNM Resources states that it will continue to claim an exemption under section 3(a)(1) by rule 2.

DCC Project Finance, a Delaware corporation, is a single purpose entity (''SPE'') and has a 60% beneficial ownership interest in the Eastern Interconnection Project (''EIP''). The EIP consists of a 216 mile, 345 kV transmission line between PNM's bulk power switching station north of Bernalillo, New Mexico and a high voltage DC converter station, called the Blackwater Station, located in the Clovis-Portales area of eastern New Mexico, plus associated switching equipment and the Blackwater Station DC converter facilities. The EIP was constructed in 1984–1985 to interconnect PNM's transmission system to that of Southwestern Public Service Company (''SPS''). As of February 5, 1985, the EIP had an appraised fair market value of not less than $73,000,000.

PNM is party (''Lessee'') to a leveraged lease transaction under which it leases a 60% undivided interest in EIP from DCC Project Finance (''Lessor''). Applicants are exercising their rights to purchase under the lease, as stated in section 14 of the amended and restated lease as of September 1, 1993:

(a) Unless a Default or Event of Default shall have occurred and be continuing, the Lessee shall have the right to exercise one of the following options to purchase the Undivided Interest:

(1) On the date of expiration of the Basic Term, the Fixed Rent Renewal Term or any then applicable Fair Market Renewal Term, the Lessee shall have the right upon not less than two years' prior written notice, to purchase the Undivided Interest on the date of expiration of such Term at a purchase price equal to the Fair Market Value thereof; or

(2) On the Basic Rent Payment Date designated in a written notice given at least two years prior to such Basic Rent Payment Date (which date may only be a Basic Rent Payment Date during the Basic Term occurring on or after the thirtieth Basic Rent Payment Date), at a purchase price equal to the greater of the Early Purchase Value applicable on the date of purchase and the Fair Market Value of the Undivided Interest on such

[3] Currently, Alabama has approximately 4,300 railcars that transport coal to two of its plants. Georgia has approximately 4,400 railcars that transport coal to nine of its plants. Gulf does not have any railcars, but Mississippi has leased 800 railcars on behalf of itself and Gulf that transport coal to Plant Daniel, which is owned by Mississippi and Gulf as tenants in common. Mississippi has approximately 1,000 railcars that transport coal to two of its plants. Savannah has approximately ninety-four railcars that transport coal to one of its plants.

[4] Prior to this proposed transaction, DCC Project Finance has claimed the exclusion under rule 7(d)(1)(ii) promulgated under the Act because all of the equity interest in the DCC Project Finance is owned by a company, DCCC, that is otherwise primarily engaged in one or more businesses other than the business of a public utility company.

[5] Dana Commercial Credit Corporation's Annual Report for the year 2000 states that Dana Commercial Credit Corporation, a Delaware corporation, is a subsidiary of Dana Corporation, one of the world's largest suppliers to vehicle manufacturers and their related aftermarkets. DCCC, either directly or through subsidiary companies, is primarily engaged in one or more businesses other than the business of a public utility company. DCC Project Finance is a direct, wholly owned subsidiary of DCCC. DCCC owns all of the issued and outstanding capital stock of DCC Project Finance.

date, plus an amount equal to the sum of any Basic Rent then owing and any premium due on prepayment of the Notes.

Under a purchase agreement between DCCC [6] and PNM dated as of January 15, 2002 (''Purchase Agreement''), the Applicants will purchase 100% of the issued and outstanding common stock of DCCC Project Finance (''Subject Stock''), to be renamed PNM Project Finance Two, Inc., immediately upon consummation of the transaction. The Applicants will purchase the Subject Stock from DCCC for $5,672,000.[7]

PNM Resources states that it will maintains its qualification for a section 3(a)(1) exemption by rule 2. PNM is an integrated public utility primarily engaged in the generation, transmission, distribution and sale of electricity and in the transmission, distribution and sale of natural gas within the State of New Mexico, will continue to be a wholly owned subsidiary of PNM Resources. PNM Project Finance Two (previously DCC Project Finance), a Delaware corporation, will be a wholly owned subsidiary of PNM. PNM Resources states that it will not derive, directly or indirectly, any material part of its income from PNM Project Finance (in any event, the gross revenues derived from PNM Project Finance will not exceed $200,000). PNM Resources does not own directly any utility properties or perform any utility operations.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–4343 Filed 2–22–02; 8:45 am]

BILLING CODE 8010–01–P

[6] The institutional equity investor, DCCC is the sole beneficiary of the grantor trust which holds legal title to the 60% interest and leases the interest to PNM. The DCCC maintains its investment in the leased assets through a wholly owned, single-purpose Delaware corporation DCC Finance Project.

[7] If the closing date shall occur after February 28, 2002, interest on the cash payment of $5,672,000 will be computed at the lower of DCCC's 60-day funding cost or 5% per annum for the actual number of days elapsed from, but excluding January 15, 2002, to and including the closing date. Such interest (if due) shall be an upward adjustment the cash purchase price. No other pricing adjustment is applicable to the purchase or sale of the Subject Stock.

SMALL BUSINESS ADMINISTRATION

Federal Assistance to Provide Financial Counseling, Technical Assistance and Long-term Training to Women in the State of Vermont

AGENCY: U.S. Small Business Administration.

ACTION: Program Announcement No. OWBO–99–012, as amended by OWBO–2000–015.

SUMMARY: The Small Business Administration (SBA) plans to issue program announcement No. OWBO–99–012, as amended by OWBO–2000–15, to invite applications from private, not-for-profit organizations to conduct a Women's Business Center (WBC) project in the State of Vermont. The authorizing legislation is the Small Business Act, Section 29, 15 U.S.C. 631(h) and 656. The selection process is competitive. The successful applicant's WBC project will serve as a replacement for a previous project in the State of Vermont that ended after its 2nd year. The replacement WBC is to carry out a project for the remaining 3 years of a 5-year term.

The Women's Business Center project must provide long-term training, counseling and technical assistance to women who are in and starting businesses. Service and assistance areas must include financial, management, marketing, government procurement and loan packaging. The applicant must submit a plan for each remaining year of the project term, *i.e.*, 7/01/02–06/30/03; 07/01/03–06/30/04; and 07/01/04–06/30/05. The applicant's proposal must include a scope of work and a budget not exceeding the Federal grant amount of $150,000 plus 100% match. Also, the proposal must include a plan to target women who are socially and economically challenged and a plan to contribute content and services to the SBA Online Women's Business Center web site at *www.onlinewbc.gov.*

SBA will issue an annual award to the successful recipient for each project year, without re-competition. The award recipient must provide non-Federal matching funds at 100%, *i.e.*, one non-Federal dollar for each Federal dollar. At least half of the non-Federal match must be in cash. The remainder may be in the form of in-kind contributions.

DATES: SBA will mail program announcements to interested parties immediately, upon request. The opening date will be March 5, 2002 and the closing date will be April 11, 2002.

FOR FURTHER INFORMATION CONTACT: Denise Edmonds at (202) 205–6673 or *denise.edmonds@sba.gov.*

Wilma Goldstein,

Assistant Administrator, SBA/Office of Women's Business Ownership.

[FR Doc. 02–4352 Filed 2–22–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 3920]

Extension of the Restriction on the Use of United States Passports for Travel To, In or Through Iraq

On February 1, 1991, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73(a)(2) and (a)(3), all United States passports, with certain exceptions, were declared invalid for travel to, in, or through Iraq unless specifically validated for such travel. The restriction was originally imposed because armed hostilities then were taking place in Iraq and Kuwait, and because there was an imminent danger to the safety of United States travelers to Iraq. American citizens then residing in Iraq and American professional reporters and journalists on assignment there were exempted from the restriction on the ground that such exemptions were in the national interest. The restriction has been extended for additional one-year periods since then, and was last extended through February 28, 2002.

Conditions in Iraq remain hazardous for Americans. Iraq continues to refuse to comply with UN Security Council resolutions to fully declare and destroy its weapons of mass destruction and missiles while mounting a virulent public campaign in which the United States is blamed for maintenance of U.N. sanctions. The United Nations has withdrawn all U.S. citizen UN humanitarian workers from Iraq because of the Government of Iraq's stated inability to protect their safety. Iraq regularly fires anti-aircraft artillery and surface-to-air missiles at U.S. and coalition aircraft patrolling the no-fly zones over northern and southern Iraq, and regularly illuminates U.S. and coalition aircraft with target-acquisition radar.

U.S. citizens and other foreigners working inside Kuwait near the Iraqi borders have been detained by Iraqi authorities in the past and sentenced to lengthy jail terms for alleged illegal entry into the country. Although our

interests are represented by the Embassy of Poland in Baghdad, its ability to obtain consular access to detained U.S. citizens and to perform emergency services is constrained by Iraqi unwillingness to cooperate. In light of these circumstances, and pursuant to the authorities set forth in 22 U.S.C. 211a, Executive Order 11295, and 22 CFR 51.73, I have determined that Iraq continues to be a country ''where there is imminent danger to the public health or physical safety of United States travelers''.

Accordingly, United States passports shall continue to be invalid for travel to, or for use in, Iraq unless specifically validated for such travel under the authority of the Secretary of State. The proposed extension will continue to exclude from its coverage persons resident in Iraq since February 1, 1991, and professional journalists. In the absence of the exclusion, those journalists and long-time residents would have to apply for specific validations; we would expect to grant any such requests, and therefore see no reason to revisit the exclusion.

The Public Notice shall be effective from the date it is published in the **Federal Register** and shall expire at midnight on February 28, 2003, unless sooner extended or revoked by Public Notice.

Dated: February 13, 2002.

Colin L. Powell,

Secretary of State, Department of State.

[FR Doc. 02–4419 Filed 2–22–02; 8:45 am]

BILLING CODE 4710–10–P

TENNESSEE VALLEY AUTHORITY

Programmatic Environmental Impact Statement on Reservoir Operating Policies

AGENCY: Tennessee Valley Authority.

ACTION: Notice of Intent.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500 to 1508) and the Tennessee Valley Authority (TVA) procedures implementing the National Environmental Policy Act. In response to recommendations from its citizen advisory group, the Regional Resource Stewardship Council, and other individuals and stakeholder groups, TVA is conducting a comprehensive reservoir operations study (ROS). The purpose of the ROS is to determine if changes in TVA's reservoir operating policies would produce greater overall public value. As part of the study, TVA will prepare a programmatic environmental impact statement (EIS). TVA will use the EIS process to elicit and prioritize the values and concerns of stakeholders; identify issues, trends, events, and tradeoffs affecting reservoir operating policies; formulate, evaluate, and compare alternative reservoir operating policies; provide opportunities for public review and comment; and ensure that any decision to change its operating policies reflect a full range of stakeholder input. Public comments are invited concerning both the scope of the environmental issues and the alternative operating policies that should be addressed in the EIS.

DATES: Comments on the scope of the issues and alternatives to be addressed in the EIS must be postmarked or e-mailed by April 26, 2002.

TO COMMENT ON THE STUDY OR FOR FURTHER INFORMATION CONTACT: David Nye, ROS Project Manager, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11A, Knoxville, Tennessee 37902–1499; call the TVA ROS EIS toll free number (1–888–882–7675); fax to 865–632–3146; or access the TVA web site at *www.tva.com.*

SUPPLEMENTARY INFORMATION:

Background

A wholly owned corporation of the U.S. Government, TVA was established by an act of Congress in 1933 to foster the social and economic welfare of the people of the Tennessee Valley region and to promote the wise use and development of the region's natural resources. Section 9a of the TVA Act provides the historical and legal context for TVA's reservoir operating policies. Added by Congress as an amendment in 1935, Section 9a directs TVA to manage the reservoir system primarily to promote navigation and control floods and, to the extent consistent with these purposes, for the generation of electricity.

In carrying out its mandate, TVA developed an integrated system that includes 49 dams and reservoirs; 48 of which were built on the Tennessee River and its tributaries and one, Great Falls, is located on a tributary of the Cumberland River. The dams and reservoirs, also referred to as projects, differ in age, size, and specific authorized purposes. Based on the authorized purpose(s), TVA dams and reservoirs fall into one of four groups: (1) Multipurpose tributary projects which provide seasonal stream flow regulation for flood control, navigation, and hydroelectric power generation; (2) multipurpose main Tennessee and Clinch River projects pass rainfall runoff, generate electric power, and maintain minimum levels for commercial navigation; (3) single purpose power projects which generate hydroelectric power; and (4) smaller non-power projects which provide local flood relief, water supply, water quality, and/or recreation.

The drainage area of the Tennessee River system covers about 41,000 square miles. This area includes 125 counties within much of Tennessee and parts of six other states: Alabama, Kentucky, Georgia, Mississippi, North Carolina, and Virginia. The larger TVA Power Service Area includes 201 counties and about 80,000 square mile in the same seven states.

TVA manages the reservoir system, which includes 14 navigation locks operated by the U.S. Army Corps of Engineers, to provide an 800-mile commercial navigation channel from the mouth of the Tennessee River at Paducah, Kentucky, to the headwaters of the Tennessee River at Knoxville, Tennessee, and downstream parts of the Clinch and Hiwassee Rivers. TVA maintains water levels sufficient to provide a minimum navigation channel depth of nine feet (with a two-foot overdraft) throughout this navigable waterway.

Thirteen multipurpose tributary projects, built to reduce the risk of flood damage along the river, are operated to regulate flood crests and store runoff for later hydroelectric generation. Powerhouses were built at 30 TVA dams, including its Raccoon Mountain Pumped-Storage Facility, which now provides approximately 5,000 megawatts of hydro generation capacity. Although the powerhouses were initially built to provide base-load capacity, the demand for power in the Tennessee Valley exceeded the hydropower capacity of the reservoir system during the 1950s. As fossil and nuclear base-load generating sources were added, operation of the hydro system was modified to take advantage of the versatility and dependability of hydropower to meet peak power demands and improve power system reliability. Today, depending on annual rainfall and runoff, the hydro system produces 10 to 15 percent of TVA's annual average system generation output.

The annual rainfall and runoff patterns in the Tennessee Valley govern the operation of the reservoir system. Operating guides, developed from long-term stream-flow records and project requirements and constraints, identify water levels that should be met in each reservoir at various times during the

year. December through early April is the major flood season in the Tennessee Valley because storms tend to be larger and more runoff occurs during this part of the year. During this period, TVA tributary reservoirs are lowered to a minimum level to provide storage capacity that reduces the risk of flooding at major damage centers, including Chattanooga, Tennessee, and other communities along the Tennessee River and its tributaries while allowing for hydroelectric power production during periods of peak power demand. Beginning in April, when flood risks typically diminish, tributary reservoirs are allowed to fill to reach their summer recreation level by June 1. During June and July, drawdown of the tributary reservoirs is limited to maintaining downstream minimum flows, navigation channel depths, hydro power generation, cooling water for fossil and nuclear plants, and recreational benefits. Between August 1 and January 1, the reservoirs are drawn down to flood storage capacity levels based on the economic use of the water to meet power generation and water quality objectives.

In addition to the main objectives, TVA operates the dams and reservoirs as a truly integrated system for the benefit of the Valley to provide for such purposes as mosquito control, aquatic plant management, water quality, recreation, fish and wildlife habitat, municipal and industrial water supply, commercial and industrial development, and flows for power plant cooling.

TVA evaluated its reservoir operating policies in the late 1980s and, in February 1991, the TVA Board approved the *Tennessee River and Reservoir System Operation and Planning Review EIS*. Policy changes recommended in that EIS focused primarily on restricting lake level drawdown at multipurpose tributary projects to increase recreation opportunities and setting targets to improve water quality. The scope of the ROS EIS presently in progress will be more comprehensive in its approach and will evaluate all aspects of TVA's reservoir operating policies. The ROS EIS will identify and address alternative ways TVA could operate the reservoir system to use the available water in ways which would create greater value for stakeholders. Consistent with the recommendations of the Regional Resource Stewardship Council and other groups and individuals, the objectives of this study include but are not limited to:

- Clarify the values stakeholders have about the river and reservoir system;
- Identify key measures for judging future reservoir operating performance;
- Identify issues, trends, events, and tradeoffs which should be considered in formulating alternative reservoir operating policies;
- Develop clear reservoir operating policy alternatives not constrained by present operating policies;
- Provide factual information on the environmental, social, and economic effects of those alternatives; and
- Provide opportunities for stakeholders to actively participate in the process.

Preliminary Identification of Issues to Be Addressed

Based on internal and interagency discussions, TVA anticipates that the major issues to be addressed in the ROS EIS will be navigation, flood risk, power production, water quality, water supply, threatened and endangered species, wetlands, adjacent land use, recreation, and social and economic considerations. Issues related to air quality, climate, geology, groundwater, aquatic plants, invasive species, vector control, and terrestrial ecology also will be addressed; however, it is expected that these latter issues may not require detailed evaluation. This list of issues is preliminary and is intended to facilitate public comment on the scope of this EIS. It is not intended to be all-inclusive nor does it imply any predetermination of potential impacts. TVA invites suggestions concerning the list of issues which should be addressed.

The Proposed Action

The proposed action is to implement reservoir operation policies that create greater overall public value.

Alternatives

As required by CEQ regulations (40 CFR 1502.2(e)), TVA will evaluate a reasonable range of alternatives, including the present operating policies as a No Action Alternative. Alternatives will address TVA's major reservoir operating objectives—the purposes for which TVA manages the river and reservoir system. These include navigation, flood risk reduction, power production, water quality, water supply, recreation, and economic development. At this time, alternative reservoir operating policies are likely to include increasing or decreasing seasonal reservoir pool levels depending on hydrology and project constraints, and increasing or decreasing the timing and amount of releases from the reservoirs. For example, alternatives might include: (1) Extending or shortening drawdown dates for tributary projects to provide higher or lower reservoir pool levels, (2) increasing or decreasing the amount and duration of releases from TVA dams to provide increased minimum flows, (3) increasing or decreasing the depth of the commercial navigation channel, and (4) increasing or decreasing the amount of water in reservoir storage potentially affecting flood risk.

Water quality, flood risk, and weekly scheduling models of the reservoir system will be used to determine the flexibility of present reservoir operations and to maximize operating objectives with a minimum of constraints. Model results will be used to bracket the potential effects of the alternative operating policies evaluated in the EIS. The EIS will also present a review of the changes made in 1991, when the last evaluation of TVA's reservoir operating policies was conducted. That part of the study will provide a baseline for evaluating impacts of the alternatives selected for detailed analysis in this EIS. The results of the evaluation of specific alternatives on environmental, cultural, and socioeconomic resources, together with engineering and economic considerations, will be used to select a preferred alternative operating policy.

Scoping Process

CEQ regulations (40 CFR 1501.7) require the use of an early and open process for determining the scope of an EIS and for identifying the significant issues related to the proposed action. Scoping is integral to the EIS process. It is a procedure that solicits public input to ensure that: (1) All pertinent issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft EIS is thorough and balanced; and (4) delays caused by an inadequate EIS are avoided. To ensure that the full range of issues and alternatives related to this proposal are addressed, TVA invites Federal agencies, state and local governments, the general public, and others to comment on the scope of the ROS EIS. In addition to the Regional Resource Stewardship Council, TVA will also rely on individuals in a public review group and an interagency team, as well as selected external subject matter experts, for input to the study. Agencies invited to participate as part of the interagency team include U.S. Army Corps of Engineers; U.S. Fish and Wildlife Service; U.S. Forest Service; U.S. Coast Guard, National Weather Service, National Park Service, Native American Tribal representatives, a representative from each of the Valley states; and others.

TVA will hold 21 public information meetings about the ROS EIS at locations throughout the region between March 21 and April 18, 2002. The dates and locations of the information meetings will be posted on the ROS EIS web site (www.tva.com) and published in local and regional newspapers. Notices about these meetings will also be sent directly to members of the public who have previously indicated an interest in TVA's reservoir operating policy through attendance at public meetings and through correspondence with Congress and TVA. TVA will continue to develop and maintain a mailing list of individuals, agencies, organizations, and groups who have requested notices and updates of the ROS process. TVA will also maintain a public reference file at selected libraries across the region, which will include copies of all written correspondence, documents, meeting notices, agendas, and summaries.

After consideration of the comments received during this scoping period, TVA will develop and distribute a document which will summarize public and agency comments that were received, the issues and alternatives to be addressed in the EIS, and the schedule for completing the EIS process. The scoping document should be available in late spring 2002. It will be distributed to public libraries, loaded on the TVA EIS web site, and mailed out upon request.

After evaluating the issues and the potential environmental consequences of each alternative, TVA will issue a draft EIS for public review and comment. The draft EIS will be transmitted to the Environmental Protection Agency for publication of a Notice of Availability in the **Federal Register**. TVA will solicit written comments on the draft EIS and hold a series of public information meetings to receive comments. TVA plans to issue the draft EIS in spring 2003.

Dated: February 15, 2002.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment.

[FR Doc. 02–4320 Filed 2–22–02; 8:45 am]

BILLING CODE 8120–08–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Procedures for Compensation of Air Carriers

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended), this notice announces the Department of Transportation's (DOT) intention to request the extension of a previously approved collection.

DATES: Comments on this notice must be received April 26, 2002.

ADDRESSES: Comments should be directed to the Competition and Policy Analysis Division (X–55), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Jack Schmidt, Competition and Policy Analysis Division (X–55), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–5420.

SUPPLEMENTARY INFORMATION:

Title: Procedures For Compensation of Air Carriers.

OMB Control Number: 2105–0546.

Type of Request: Authority for the currently approved data collection expires on February 28, 2002. By this notice, the Department is requesting an extension until February 28, 2003.

Abstract: As a consequence of the terrorist attacks on the United States on September 11, 2001, the U.S. commercial aviation industry suffered severe financial losses. These losses placed the financial survival of many air carriers at risk. Acting rapidly to preserve the continued viability of the U.S. air transportation system, President Bush sought and Congress enacted the Air Transportation Safety and System Stabilization Act (''the Act''), Pub. L. 107–42.

Under section 101(a)(2)(A–B) of the Act, a total of $5 billion in compensation is provided for ''direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continue or renews such stoppage; and the incremental losses incurred beginning September 11, 2001 and ending December 31, 2001, by air carriers as a direct result of such attacks.'' The Department of Transportation previously disbursed initial estimated payments of nearly $2.5 billion of the $5 billion amount that Congress authorized, using procedures set forth in the Department's Program Guidance Letters that were widely distributed and posted on the Department' Web site.

On October 29, 2001 (66 FR 54616), the Department published in the **Federal Register** a final rule and request for comments to establish procedures for air carriers who had received or wished to receive compensation under the Act. The rule covered such subjects as eligibility, deadlines for application, information and forms required of applicants, and audit requirements. The Department has received submissions from many carriers pursuant to this rule and is continuing to process requests for compensation.

Respondents: U.S. air carriers.

Estimated Number of Respondents: 430.

Estimated Total Burden on Respondents: 5,320 hours.

Comments are invited on: (a) Whether the proposed collection of Information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected, and (d) ways to minimize the burden of the collection of information of respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC, on February 14, 2002.

Randall D. Bennett,

Director, Office of Aviation Analysis.

[FR Doc. 02–4414 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement Number PS–ACE100–2001–02]

Small Airplane Directorate Policy on Flammability Testing

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance and availability.

SUMMARY: This notice announces a Federal Aviation Administration (FAA) policy on flammability testing of materials used in small airplanes. This notice advises the public, especially manufacturers of normal, utility, and acrobatic category airplanes, and commuter category airplanes used in

non-scheduled service and their suppliers, that the FAA has adopted a new policy concerning flammability testing. This notice is necessary to advise the public of methods to obtain copies of this final FAA policy.

EFFECTIVE DATE: The subject final policy was issued on January 23, 2002, and became effective on that date.

DISCUSSION: On August 3, 2001, the Small Airplane Directorate issued a proposed policy statement. We made the proposed policy statement available to the public (66 FR 42703, August 14, 2001) and to all manufacturers for their comments. The comment period closed September 13, 2001, and all comments were considered before the final policy was issued.

ADDRESSES: Copies of the final policy statement, PS–ACE100–2001–02, may be requested from the following: Small Airplane Directorate, Standards Office (ACE–110), Aircraft Certification Office, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, MO 64106. The policy statement is also available on the Internet at the following address *http://www.faa.gov/certification/aircraft/small_airplanes_advisory.html.*

FOR FURTHER INFORMATION CONTACT: Leslie B. Taylor, Federal Aviation Administration, Small Airplane Directorate, Regulations & Policy, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4134; fax: 816–329–4090; e-mail: *leslie.b.taylor@faa.gov.*

Issued in Kansas City, Missouri on January 29, 2002.

Marvin Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–4412 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 4, 2001. No comments were received.

DATES: Comments must be submitted on or before March 27, 2002.

FOR FURTHER INFORMATION CONTACT: Murray A. Bloom, Maritime Administration, MAR–222, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5320 or FAX 202–366–7485.

Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Maritime Administration (MARAD)

Title: Application for Designation of Vessels as American Great Lakes Vessels.

OMB Control Number: 2133–0521.

Type or Request: Extension of currently approved collection.

Affected Public: Shipowners of merchant vessels.

Form (s): None.

Abstract: In accordance with Public Law 101–624, the Secretary of Transportation issued requirements for the submission of applications for designation of vessels as American Great Lakes Vessels. Owners who wish to have this designation must certify that their vessel(s) meets certain criteria established in 46 CFR part 380. This collection of information is mandated by statute to establish that a vessel meets statutory criteria for obtaining the benefit of eligibility to carry preference cargoes.

Annual Estimated Burden Hours: 1.25 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

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 proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on February 20, 2002.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–4409 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–10900; Notice 2]

Decision that Nonconforming 1998 Chrysler Grand Voyager Multi-Purpose Passenger Vehicles are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1998 Chrysler Grand Voyager multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1998 Chrysler Grand Voyager MPVs not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 1998 Chrysler Grand Voyager), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of February 25, 2002.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is

capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''WETL'') (Registered Importer 90–005) petitioned NHTSA to decide whether 1998 Chrysler Grand Voyager MPVs originally manufactured for sale in the European market are eligible for importation into the United States. NHTSA published notice of the petition on November 19, 2001 (66 FR 58003) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice of the petition. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–373 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1998 Chrysler Grand Voyager MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 1998 Chrysler Grand Voyager MPVs originally manufactured for sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 20, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–4413 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''(MA)-Loans in Areas Having Special Flood Hazards (12 CFR 22).'' The OCC also gives notice that it has sent the information collection to OMB for review and approval.

DATES: You should submit your comments to the OCC and the OMB Desk Officer by March 27, 2002.

ADDRESSES: You should direct comments to:

Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0202, 250 E Street, SW, Washington, DC 20219. Due to recent, temporary disruptions in the OCC's mail service, commenters are encouraged to submit comments by fax or e-mail. Comments may be sent by fax to (202) 874–4448, or by e-mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Alexander T. Hunt, OMB Desk Officer for the OCC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: (MA)-Loans in Areas Having Special Flood Hazards (12 CFR 22).

OMB Number: 1557–0202.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection. The OCC requests only that OMB extend its approval of the information collection. This regulation requires national banks to make disclosures and keep records regarding whether a property securing a loan is located in a special flood hazard area.

This information collection is required by section 303(a) and title V of the Riegle Community Development and Regulatory Improvement Act, Pub. L. 103–325, title V, 108 Stat. 2160, the National Flood Insurance Reform Act of 1994 amendments to the National Flood Insurance Act of 1968 (42 U.S.C. 4104a and 4104b), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a and 4106(b)), and by OCC regulations implementing those statutes. The information collection requirements are contained in 12 CFR part 22.

Section 22.6 requires a national bank to use and maintain a copy of the Standard Flood Hazard Determination Form developed by the Federal Emergency Management Agency (FEMA).

Section 22.7 requires a national bank or its loan servicer, if a borrower has not obtained flood insurance, to notify the borrower to obtain adequate flood insurance coverage or the bank or servicer will purchase flood insurance on the borrower's behalf.

Section 22.9 requires a national bank making a loan secured by a building or a mobile home located in a special flood hazard area to advise the borrower and the loan servicer whether the property located in a special flood hazard area, whether flood insurance on the property securing the loan is required, whether flood insurance is available under the National Flood Insurance Program, and if Federal disaster relief may be available in the event of flooding. The bank must maintain a record of the borrower and loan servicer's receipts of these notices.

Section 22.10 requires a national bank making a loan secured by a building or a mobile home located in a special flood hazard area to notify FEMA of the identity of the servicer, and of any change in servicers.

These information collection requirements ensure bank compliance with applicable Federal law, further bank safety and soundness, provide protections for banks and the public, and further public policy interests.

Type of Review: Extension of OMB approval.

Affected Public: Businesses or other for-profit (national banks).

Estimated Number of Respondents: 2,300.

Estimated Total Annual Responses: 230,000.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 58,650 hours.

Dated: February 15, 2002.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 02–4342 Filed 2–22–02; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease Development for a New Department of Veterans Affairs (VA) Veterans Assistance Office (VAO), Las Vegas, NV

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Designation.

SUMMARY: The Secretary of the Department of Veterans Affairs (VA) is designating VA-controlled property adjacent to the VA Ambulatory Care Center in Las Vegas, Nevada, as a site for Enhance-Use development. The Department intends to enter into a long-term (up to 75 years) lease of real property with a competitively selected developer who will finance, develop, and operate office space needed for VA administrative purposes. VA will improve services, reduce operating costs, and optimize capital investments.

FOR FURTHER INFORMATION CONTACT: Brian McDaniel, Asset Enterprise Management (004B), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420, (202) 273–9702.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 8161 *et. seq.,* specifically provides that the Secretary may enter into an Enhanced-Use lease if he determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department. The lease will not be inconsistent with and will not adversely affect the mission of the Department. The lease will enhance the use of the property or the Secretary must determine that the project will result in a demonstrable improvement of services to veterans. This project meets these requirements.

Approved: February 11, 2002.

Anthony J. Principi,

Secretary.

[FR Doc. 02–4328 Filed 2–22–02; 8:45 am]

BILLING CODE 8320–01–M

Notices

Federal Register

Vol. 67, No. 37

Monday, February 25, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Friday, March 1, 2002. The meeting will be held in Room M09 at the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC beginning at 8:30 a.m.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Defense, and Transportation; the Administrators of the Environmental Protection Agency and General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor, a Native Hawaiian; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Chairman's Welcome
II. Chairman's Report
III. Report of Executive Committee
  A. Revision Council Mission Statement
  B. Technical Amendments to Section 106 Regulations
IV. Report of the Preservation Initiatives Committee
  A. Preservation Executive Order
  B. Preservation America Initiative
  C. Heritage Tourism Initiatives
V. Report of the Federal Agency Programs Committee
  A. Implementation of Council's Policy Statement on Balancing Cultural and Natural Values on Federal Lands
  B. Federal Program Improvement Priorities and Initiatives
VI. Report of the Communications, Education, and Outreach Committee
  A. Recommendations Regarding Council Communications Audit
  B. Presidential Historic Preservation Awards
  C. Preservation Leadership Conference
VII. Report of the Historic Preservation and Security Task Force
  A. Status of National Capital Planning Commission Report on Designing for Security in the Nation's Capital
  B. Report on Washington Monument Section 106 Review
VIII. Report of the Missouri River Task Force
IX. Executive Director's Report
  A. Council FY 2003 Budget Request
  B. Reorganization of Council Staff
  C. Section 106 Exemption for Historic Pipelines
X. New Business
XI. Adjourn

Note: The meetings of the Council are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., Room 809, Washington, DC, 202–606–8503, at least seven (7) days prior to the meeting.

For further information contact: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., #809, Washington, DC 20004.

Dated: February 20, 2002.

John M. Fowler,

Executive Director.

[FR Doc. 02–4439 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–100–1]

Aventis CropScience; Availability of Environmental Assessment for Extension of Determination of Nonregulated Status for Canola Genetically Engineered for Male Sterility, Fertility Restoration, and Glufosinate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment has been prepared for a proposed decision to extend to additional canola events our determination that certain canola events developed by Aventis CropScience, which have been genetically engineered for male sterility, fertility restoration, and tolerance to the herbicide glufosinate, are no longer considered regulated articles under our regulations governing the introduction of certain genetically engineered organisms. We are making this environmental assessment available to the public for review and comment.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by March 27, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–100–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–100–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 01–100–1'' on the subject line.

You may read the extension request, the environmental assessment, and any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. James White, Plant Protection and Quarantine, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–5490. To obtain a copy of the extension request or the environmental assessment, contact Ms. Kay Peterson at (301) 734–4885; e-mail: *Kay.Peterson@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Further, the regulations in § 340.6(e)(2) provide that a person may request that APHIS extend a determination of nonregulated status to other organisms. Such a request must include information to establish the similarity of the antecedent organism and the regulated article in question.

Background

On September 9, 2001, APHIS received a request for an extension of a determination of nonregulated status (APHIS No. 01–206–01p) from Aventis CropScience (Aventis) of Research Triangle Park, NC, for canola (*Brassica napus L.*) transformation events designated as MS1 and RF1 and RF2, which have been genetically engineered for male sterility (MS1), fertility restoration (RF1 and RF2), and tolerance to the herbicide glufosinate (MS1, RF1, and RF2). The Aventis request seeks an extension of a determination of nonregulated status issued in response to APHIS petition number 98–278–01p for male sterile canola transformation event MS8 and fertility restoration canola transformation event RF3, the antecedent organisms (see 64 FR 15337–15338, Docket No. 98–114–2, published March 31, 1999). Both MS8 and RF3 are also tolerant to the herbicide glufosinate. Based on the similarity of canola events MS1 and RF1 and RF2 to the antecedent organisms, Aventis requests a determination that MS1 and RF1 and RF2 do not present a plant pest risk and, therefore, are not regulated articles under APHIS' regulations in 7 CFR part 340.

Analysis

Like the antecedent organisms, canola events MS1 and RF1 and RF2 have been genetically engineered to contain a *barnase* gene (MS1) for male sterility or a *barstar* gene (RF1 and RF2) for fertility restoration. The *barnase* gene expresses a ribonuclease that blocks pollen development and results in a male-sterile plant, and the *barstar* gene encodes a specific inhibitor of this ribonuclease and restores fertility. The *barnase* and *barstar* genes were derived from *Bacillus amyloliquefaciens*, and are linked to in the subject transformation events to the *bar* gene derived from *Streptomyces hygroscopicus*. The *bar* gene encodes the enzyme phosphinothricin-N-acetyltransferase (PAT), which confers tolerance to the herbicide glufosinate. The subject canola events and the antecedent organisms were developed through use of the *Agrobacterium tumefaciens* method, and expression of the added genes in MS1 and RF1 and RF2 and the antecedent organisms is controlled in part by gene sequences derived from the plant pathogen *A. tumefaciens*. In summary, the Aventis extension request states that canola events MS1 and RF1 and RF2 and the antecedent organisms contain the same genetic elements with the exception of the antibiotic resistance marker gene *nptII* in MS1 and RF1 and RF2, which was used as a transformant selection tool during the developmental process. The parental variety Drakkar was used to develop both the antecedent organisms and MS1 and RF1 and RF2.

Canola events MS1 and RF1 and RF2 and the antecedent organisms were genetically engineered using the same transformation method and contain the same enzymes for male sterility, fertility restoration, and glufosinate herbicide tolerance. Accordingly, we have determined that canola events MS1 and RF1 and RF2 are similar to the antecedent organisms in APHIS petition number 98–278–01p, and we are proposing that canola events MS1 and RF1 and RF2 should no longer be regulated under the regulations in 7 CFR part 340.

The subject canola events have been considered regulated articles under APHIS' regulations in 7 CFR part 340 because they contain gene sequences derived from a plant pathogen. However, canola events MS1 and RF1 and RF2 have been field tested in numerous countries, including the United States and Canada, and after having received the appropriate Canadian approvals, have been marketed commercially in Canada since 1996 with no reports of adverse effects on human health or the environment.

Should APHIS approve Aventis' request for an extension of a determination of nonregulated status, canola events MS1 and RF1 and RF2 would no longer be considered regulated articles under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations would no longer apply to the field testing, importation, or interstate movement of the subject canola events or their progeny.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine any potential environmental impacts associated with the proposed extension of a determination of nonregulated status for the subject canola events. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Copies of the Aventis extension request and the EA are available from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 19th day of February 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–4385 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Silver Pearl Land Exchange; Eldorado National Forest, El Dorado and Placer Counties, California

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) on a proposal to acquire approximately 3,994 acres of Sierra Pacific Industries Corporation land in exchange for 2,126 acres of National

Forest System land. The purpose of the exchange is to improve land management efficiencies by consolidating land ownership, while obtaining lands providing a variety of public benefits, including ecological and recreational values; and to eliminate the need to provide access to a private parcel within a roadless (RARE II) area. It is believed that the integrity of recreational, ecological and economic values will be improved by the consolidation of ownership resulting from a land exchange. The values of the lands exchanged must be equal.

DATES: The draft Environmental Impact Statement (EIS) is scheduled to be completed in June 2002 for public review and comment. The final EIS is scheduled to be completed by December 2002.

ADDRESSES: Send written comments to Elaine Gee, Project Leader, Eldorado National Forest, 7600 Wentworth Springs Road, Georgetown, CA 95634.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Elaine Gee, at the above address, or call her at 530–333–4312.

SUPPLEMENTARY INFORMATION: The Forest Service is initiating this action in order to exchange lands that will provide a balance in public benefits while improving management opportunities. Lands within the Rubicon River Canyon (recommended for Wild and Scenic River status), the Silver Fork of the American River (a Wild and Scenic eligible river) and the Pyramid-Bassi Roadless Area (RARE II); lands along the Pony Express National Historic Trail are proposed for acquisition; along with other lands containing unique ecological values, valuable timber resources and important recreational opportunities. The lands to be exchanged also contain important resource values, including lands suitable for growth and harvest of commercial conifers and areas that contain quality wildlife habitat. Also considered is the opportunity to consolidate lands into contiguous blocks that can be more efficiently and economically managed, thereby facilitating the ownership objectives of both the Forest Service and Sierra Pacific Industries Corporation. All federal lands proposed for exchange are on the Eldorado National Forest and are in compliance with the land adjustment management direction in the 1989 Eldorado National Forest Land and Resources Management Plan.

The exchange meets the public interest requirements in 36 CFR 254.3(b): (1) The resource values and the public objectives served by the non-federal lands and interests to be acquired are equal or exceed the resource values and the public objectives served by the federal lands to be disposed; and (2) the intended use of the disposed federal land will not substantially conflict with established management objectives on adjacent federal lands.

Lands will be exchanged on a value for value basis, based on current fair market value appraisals. The appraisal is prepared in accordance with the Uniform Standards for Federal Land Acquisition. The appraisal prepared for the land exchange is reviewed by a qualified review appraiser to ensure that it is fair and complies with the appropriate standards. Under the Federal Land Policy and Management Act of 1976, all exchanges must be equal in value. Forest Service regulations at 36 CFR 254.3(c) require that exchanges must be of equal value or equalized pursuant to 35 CFR 254.12 by cash payment after making all reasonable efforts to equalize values by adding or deleting lands. If lands proposed for exchange are not equal in value, either party may make them equal by cash payment not to exceed 25 percent of the federal land value.

The decision to be made is what lands, if any, should be exchanged as part of this proposal. The proposed action is to exchange approximately 2,126 acres of National Forest System land for approximately 3,994 acres of Sierra Pacific Industries Corporation land, adjusted for equal value as required by law. Other alternatives will be developed based on significant issues identified during the scoping process for the environmental impact statement. All alternatives will need to respond to the specific condition of providing benefits equal to or better than the current condition. Alternatives being considered at this time include: (1) no action and (2) exchanging lands as identified in the proposed action.

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from the Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. To facilitate public participation information about the proposed action was mailed to all who expressed interest in the proposed action based on publication in the Eldorado National Forest Schedule of Proposed Action. The Forest Service hosted a public meeting/open house to present the proposal at the Eldorado National Forest Headquarters at 100 Forni Road Placerville, CA on December 13, 2001. Notification of the additional public scoping periods will be published in the Mountain Democrat, Placerville, CA. The DEIS is scheduled to be available in June 2002 and the Forest will host another public meeting after the draft is mailed to interested parties.

Comments submitted during the scoping process should be in writing and should be specific to the proposed action. The comments should describe as clearly and completely as possible any issues the commenter has with the proposal. The scoping process includes:

(a) Identifying potential issues;

(b) Identifying issues to be analyzed in depth.

(c) Eliminating nonsignificant issues or those previously covered by a relevant previous environmental analysis;

(d) Exploring additional alternatives;

(e) Identifying potential environmental effects of the proposed action and alternatives.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by June 2002. EPA will publish a notice of availability of the draft EIS in the **Federal Register.** The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register.** At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is very important that those interested in the management of the Eldorado National Forest participate at that time.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage, but that are not raised until after completion of the final EIS may be waived or dismissed by the courts, *City of Angoon* v. *Hodel,* 803f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections

are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The final EIS is scheduled to be completed in December 2002. In the final EIS, The Forest Service is required to respond to substantive comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal.

John Berry, Forest Supervisor, Eldorado National Forest is the responsible official. As the responsible official he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 215).

Dated: February 19, 2002.

John D. Berry,

Forest Supervisor.

[FR Doc. 02–4368 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Airport Forest Health Timber Sale, Eldorado National Forest, Pacific Ranger District, El Dorado County, California

AGENCY: Forest Service, USDA.

ACTION: Cancellation of Notice of Intent.

SUMMARY: This document provides notice of cancellation of the intent to prepare an environmental impact statement (EIS) on a proposal to harvest timber, prescribe burn, and improve wildlife habitat on the Pacific Ranger District.

DATES: The draft environmental impact statement was originally scheduled for August 2000 with a 45-day public review and comment period. The publishing and distribution of this draft EIS is cancelled.

FOR FURTHER INFORMATION CONTACT: Don Errington, Project Leader, Pacific Ranger Station, 7887 Highway 50, Pollock Pines, California, 95726, Phone (530) 644–2349.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an environmental impact statement for the Airport Forest Health Timber Sale was published in the **Federal Register** on June 27, 2000 (Volume 65, Number 124, pp 39594–39596) announcing the intent to prepare and release a draft EIS in August 2000 with a final EIS scheduled for September 2000.

The original notice of intent informed the public of the agency's intention to document the analysis in an EIS. The primary reason for the cancellation is a change in management direction for the project area.

Dated: February 19, 2002.

John Berry,

Forest Supervisor, Eldorado National Forest.

[FR Doc. 02–4369 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Yates Duck Creek Federal Oil Well #1 Environmental Impact Statement: Medicine Bow-Routt National Forests and Thunder Basin National Grassland

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) on a proposal to drill for and develop conventional oil and gas resources with one (1) well on National Forest System lands in Campbell County, Wyoming. The well would be located on Federal Lease #WYW–141191, issued in 1997, in section 30, T.55N.,R.69W., 6th P.M.

The purpose of the project is to determine the potential for oil and gas development, by drilling one exploratory well in the Duck Creek area. The project potentially includes three phases: drilling, development and/or production of oil and/or gas if discovered in producible quantities, and abandonment. The initial phase of the project would include constructing access to the drill site, constructing a well pad, and drilling and testing the well. If results of testing indicate that oil and/or gas are present in producible quantities, production equipment and facilities would be installed. Development could include the installation of tanks and treatment equipment on the wellsite and a pipeline to transport the product. The project proposal also includes a plan for abandonment of the well. If oil and/or gas are not present in quantities that justify completion and production, the well would be abandoned and the site and access road reclaimed immediately. If the well is put into production, well abandonment and reclamation of the well site and access road would be performed to achieve a pre-project condition after the reservoir is depleted. The proposed well would be located in the Duck Creek Inventoried Roadless Area. If approved as proposed, the decision would permit road construction and reconstruction to occur in the roadless area. The EIS will comply with the requirements of the National Environmental Policy Act (42 U.S.C. sections 4321–4370a), the National Forest Management Act (16 U.S.C. 1600–1614), and the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), and their implementing regulations.

DATES: Comments concerning the proposal and the scope of the analysis will be accepted and considered at any time after publication of this notice in the **Federal Register** and prior to a decision being made.

ADDRESSES: Send written comments to Liz Moncrief, Medicine Bow-Routt National Forest Supervisor's Office, 2486 Jackson Street, Laramie, Wyoming 82070. Electronic mail may be sent to: *emoncrie@fs.fed.us*, FAX may be sent to 307–745–2398.

FOR FURTHER INFORMATION CONTACT: Liz Moncrief, Forest Service Project Leader, 307–745–2456.

SUPPLEMENTARY INFORMATION: Yates Petroleum Corporation has filed an application with the Bureau of Land Management for a permit to drill and complete one exploration well. Drilling and completion of the well requires construction of access roads, and may include installation of testing and production equipment. As surface management agency, the Forest Service proposes to permit surface operations associated with the development of oil and/or gas resources with the drilling of one (1) well including construction of access roads and production facilities. The Forest Service will prepare an Environmental Impact Statement. This EIS will disclose the environmental effects of the proposed oil and gas development.

In 1994, the Forest Service prepared the Thunder Basin Oil and Gas Leasing EIS and issued a Record of Decision

(ROD) for future oil and gas development on NFS lands on the Thunder Basin National Grasslands. This development authorized the Bureau of Land Management (BLM) to lease Federal oil and gas resources in the Duck Creek area subject to certain stipulations described in the ROD, and pertinent to the surface use of the NFS lands. Subsequent to this decision, the BLM offered the Federal lease for sale. Yates Petroleum purchased the lease in 1997. Pursuant to 43 CFR 3101.1–2 Surface Use Rights, the lessee has a right to develop the oil and gas resources on that lease area, subject to stipulations attached to the lease and other provisions as described.

The Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan of 1985, as amended by the April 22, 1994, Record of Decision for the Environmental Impact Statement (EIS) for Oil and Gas Leasing on the Thunder Basin National Grassland, provides stipulations for oil and gas leases, and standards and guidelines for oil and gas development on NFS lands. This proposal is consistent with the 1985 Land and Resource Management Plan.

The Thunder Basin National Grassland portion of the 1985 Plan is being revised through the Northern Great Plains Management Plan Revision process. The Final EIS and 2001 Revised Thunder Basin National Grassland Plan are completed. A record of decision is expected to be approved soon. This proposal is consistent with the 2001 Revised Thunder Basin National Grassland Plan and the preferred alternative in the Final EIS.

Decision To Be Made

The Responsible Official will consider the results of the analysis and its findings and then document the final decision in a Record of Decision (ROD). The decision will include a determination of the terms, conditions, and mitigation measures under which the proponent may develop the oil and/or gas resources while also protecting the surface natural resources in the area and providing for public safety.

Responsible Official

Rick Cables, Regional Forester, USDA Forest Service, Rocky Mountain Region, 740 Simms St., Golden, Colorado, 80401 is the official responsible for making the Forest Service decision on this action. He will document his decision and rationale in a Record of Decision.

Preliminary Issues

Proposed construction/reconstruction of access roads to the proposed well location could alter the character of portions of the Creek Inventoried Roadless Area.

Public Involvement

At this time, the Forest Service is seeking information, comments and other assistance from Federal, State and local agencies, and other individuals or organizations who have an interest in, or could be affected by the proposed action. The public is encouraged to take part in this process and to visit with Forest Service officials at any time during the analysis, and prior to the decision. While public comments are welcome at any time, comments received within 30 days of the publication of this notice in the **Federal Register** will be most useful for the identification of issues and the analysis of alternatives. Comments may be sent by electronic mail (e-mail) to *emoncrie@fs.fed.us.* Written comments may be mailed to the Medicine Row—Routt National Forest Supervisors Office, 2468 Jackson Street, Laramie, Wyoming 82070–6535, attention Liz Moncrief. Please reference the *Yates-Duck Creek O&G Well EIS* on the subject line. The name and mailing address of the commenter should be provided with their comments so that future documents pertaining to this environmental analysis and the decision can be provided to interested parties.

Estimated Dates for Filing

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review during March 2002. At that time, the EPA will publish a Notice of Availability (NOA) of the draft EIS in the **Federal Register.** The comment period on the draft EIS will be for a period of not less than 45 days from the date the EPA publishes the NOA in the **Federal Register.** It is important that those interested in the management of this area to comment at that time. The final EIS is expected to be available in July 2002. In the final EIS, the Forest Service will respond to any comments received during the public comment period that pertain to the environmental analysis. Those comments and the Forest Service responses will be disclosed and discussed in the draft EIS, which will be considered when making the final decision about this proposal.

The Public's Obligation To Comment

The Forest Service believes it is important to give reviewers an early notice of several court rulings related to public participation in the environmental review process. First, 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 reviewer's position and contentions. *Vermont* Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised during the Draft Environmental Impact Statement stage, but are not raised until after completion of the Final Environmental Impact Statement, may be waived or dismissed by the courts. *City of Angoon v. Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). As a result of these previous court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final Environmental Impact Statement.

To assist the Forest Service in identifying and considering issues and concerns related to the proposed action, comments on this Draft Environmental Impact Statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft document. Comments may also address the adequacy of the Draft Environmental Impact Statement or the merits of the alternatives displayed in the document. Reviewers should refer to the Council on Environmental Quality Regulations at 40 CFR 1503.3 for implementing the procedural provisions of the National Environmental Policy Act for addressing these points. Please note that any comments that are submitted in relation to this DEIS will be considered as public information.

Release of Names

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this Proposed Action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those whose submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that,

under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submissions and notify the requester that the comments may be resubmitted with or without name and address within ten (10) days.

Dated: February 11, 2002.

M.M. Underwood, Jr.,

Director, Physical Resources, USDA Forest Service Rocky Mountain Region.

[FR Doc. 02–4109 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Advisory Committee (PAC)

AGENCY: Forest Service, Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Deschutes Provincial Advisory Committee will meet on March 14, 2002 at the Crook County Library, Broughton Room, 200 E. 2nd Street in Prineville, Oregon. A business meeting will begin at 9:00 am and finish at 4:00 pm. Agenda items will include a discussion on PAC recommendations regarding the Northwest Forest Plan, Empowering Counties/Communities, and update on Timber Sales in Central Oregon, Trout Creek update, an update on the local Noxious Weed Program, an update on the Hosmer, Metolius Basin and the Upper Deschutes Resource Management Plan Subcommittees, Info Sharing and a Public Forum from 3:30 pm till 4:00 pm. All Deschutes Province Advisory Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Chris Mickle, Province Liaison, USDA, Bend-Ft. Rock Ranger District, 1230 NE., 3rd, Bend, OR, 97701, Phone (541) 383–4769.

Dated: February 16, 2002.

Leslie A.C. Weldon,

Forest Supervisor.

[FR Doc. 02–4364 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Stayton, Oregon on Monday, March 18, 2002. The meeting is scheduled to begin at 6 p.m., and will conclude at approximately 8:30 p.m. The meeting will be held in the South Room of the Stayton Community Center located on 400 West Virginia Street in Stayton, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (P.L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. Tentative agenda items include the following topics:

Discuss Opal Creek SRA Environmental Analysis decision

Transition of the Council membership in accordance with provisions of the Council Charter

Discuss future topics and meeting schedule for the Council

A direct public comment period is tentatively scheduled to begin at 8 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the March 18 meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Stephanie Phillips; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: February 15, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02–4366 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Siuslaw Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siuslaw Resource Advisory Committee (RAC) will meet on March 8, 2002. The meeting will begin at 9:00 a.m., in the Hatfield Marine Sciences Center, Room 9, at 2030 SW Marine Sciences Drive, Newport, OR. Agenda item will include: a review of projects submitted by entities other than the Forest Service; a continuation of the review of Forest Service projects that may be recommended to the Forest Supervisor for funding with Title II dollars; consideration of the draft bylaws for the Siuslaw RAC; and, a public comment period. The meeting is expected to adjourn at 4:00 p.m. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Linda Stanley, Community Development Specialist, Siuslaw National Forest, 541/750–7210 or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, OR 97339.

Dated: February 19, 2002.

Gloria D. Brown,

Forest Supervisor.

[FR Doc. 02–4363 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Madera County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of Resource Advisory Meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Pub. L. 92–463) and under the secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Sierra National Forest's Resource Advisory Committee for Madera County will meet on Monday, March 18, 2002. The Madera Resource Advisory Committee will meet at the Spring Valley Elementary School in O'Neals, CA. The purpose of the meeting is to review Committee ground rules and goals, project evaluation and project list timetables, public involvement strategies, and the project application process.

DATES: The Madera Resource Advisory Committee meeting will be held Monday, February 18, 2002. The meeting will be held from 7 p.m. to 9 p.m.

ADDRESSES: The Madera County RAC meeting will be held at the Spring Valley Elementary School, 46655 Road 200, O'Neals, CA, two and one half miles from State Highway 41.

FOR FURTHER INFORMATION CONTACT: Dave Martin, USDA, Sierra National Forest, 57003 Road 225, North Fork, CA 93643 (559) 877–2218 ext. 3100; e-mail: dmartin05@fs.fed.us.

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Review committee ground rules and goals; (2) review project evaluations and project list timetables; (3) review goals and objectives; (4) discuss public involvement strategies and the application process. 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 19, 2002.

David W. Martin,

District Ranger.

[FR Doc. 02–4370 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Delaware

AGENCY: Natural Resources Conservation Service, Delaware, USDA.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG for review and comment.

SUMMARY: It is the intention of NRCS in Delaware to issue the following new and revised conservation practice standard in Section IV of the FOTG: Nutrient Management (Code 590).

FOR FURTHER INFORMATION CONTACT: Elesa K. Cottrell, State Conservationist, Natural Resources Conservation Service (NRCS), Suite 101, 1203 College Park Dr., Dover, Delaware 19904–8713, telephone (302) 678–4160. Copies of the practice standard will be made available upon written request.

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Delaware.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Delaware will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Delaware regarding disposition of those comments and a final determination of change will be made.

Dated: February 1, 2002.

Elesa K. Cottrell,

State Conservationist.

[FR Doc. 02–4396 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Oklahoma

AGENCY: Natural Resources Conservation Service (NRCS) in Oklahoma, U.S. Department of Agriculture.

ACTION: Notice of availability of a proposed change in Section IV of the FOTG of the NRCS in Oklahoma for review and comment.

SUMMARY: It is the intention of NRCS in Oklahoma to issue new and revised conservation practice standards in Section IV of the FOTG. The standards are Deep Tillage (324), Riparian Herbaceous Cover (390), and Riparian Forest Buffer (391), Waste Utilization (633), Vegetative Barrier (601), Nutrient Management (590), Tree-Shrub Pruning (660), Windbreak/Shelterbelt Renovation (650), Windbreak/Shelterbelt Establishment (380), Anionic Polyacrylamide (PAM) Erosion Control (450), Grassed Waterway (412), Pipeline (516), Watering Facility (614), Forest Site Preparation (490), and Tree/Shrub Establishment (612).

DATES: Comments will be received on or before March 27, 2002.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Mark Moseley, Acting ASTC (Ecological Sciences), Natural Resources Conservation Service (NRCS), 100 USDA, Suite 206 Stillwater, OK 74074–2655. Copies of these standards will be made available upon written request. You may submit electronic requests and comments to *Mark.Moseley@ok.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mark Moseley, 405–742–1235.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Oklahoma will receive comments relative to the proposed change. Following that period, a determination will be made by the NRCS in Oklahoma regarding disposition of those comments and a final determination of change will be made.

Dated: February 1, 2002.

M. Darrel Dominick,

State Conservationist, Stillwater, Oklahoma.

[FR Doc. 02–4395 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for Rural Business Opportunity Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS), an Agency within the Rural Development mission area, announces the availability of grants of up to $50,000 per application from the Rural Business Opportunity Grant (RBOG) Program for fiscal year (FY) 2002, to be competitively awarded. For multi-state projects, grant funds of up to $150,000 will be available on a competitive basis.

DATES: Any applications received in the Rural Development State Office after the date of this notice will be considered for funding after June 30, 2002.

ADDRESSES: For further information, entities wishing to apply for assistance should contact a Rural Development State Office to receive further information and copies of the application package. Potential applicants located in the District of Columbia must send their applications to the National Office at:

District of Columbia

Rural Business-Cooperative Service, USDA
Specialty Lenders Division
1400 Independence Avenue, SW., Room 6867
Washington, DC 20250–3225
(202) 720–1400

A list of Rural Development State Offices follows:

Alabama

USDA Rural Development State Office
Sterling Center, Suite 601
4121 Carmichael Road
Montgomery, AL 36106–3683
(334) 279–3400

Alaska

USDA Rural Development State Office
800 West Evergreen, Suite 201
Palmer, AK 99645–6539
(907) 761–7705

Arizona

USDA Rural Development State Office
3003 North Central Avenue, Suite 900
Phoenix, AZ 85012–2906
(602) 280–8700

Arkansas

USDA Rural Development State Office
700 West Capitol Avenue, Room 3416
Little Rock, AR 72201–3225
(501) 301–3200

California

USDA Rural Development State Office
430 G Street, Agency 4169
Davis, CA 95616–4169
(530) 792–5800

Colorado

USDA Rural Development State Office
655 Parfet Street, Room E–100
Lakewood, CO 80215
(720) 544–2903

Delaware-Maryland

USDA Rural Development State Office
P. O. Box 400
4607 South DuPont Highway
Camden, DE 19934–9998
(302) 697–4300

Florida/Virgin Islands

USDA Rural Development State Office
P. O. Box 147010
4440 NW. 25th Place
Gainesville, FL 32606
(352) 338–3402

Georgia

USDA Rural Development State Office
Stephens Federal Building
355 E. Hancock Avenue
Athens, GA 30601–2768
(706) 546–2162

Hawaii

USDA Rural Development State Office
Federal Building, Room 311
154 Waianuenue Avenue
Hilo, HI 96720
(808) 933–8380

Idaho

USDA Rural Development State Office
9173 West Barnes Dr., Suite A1
Boise, ID 83709
(208) 378–5600

Illinois

USDA Rural Development State Office
2118 West Park Court, Suite A
Champaign, IL 61821
(217) 403–6202

Indiana

USDA Rural Development State Office
5975 Lakeside Boulevard
Indianapolis, IN 46278
(317) 290–3100

Iowa

USDA Rural Development State Office
Federal Building, Room 873
210 Walnut Street
Des Moines, IA 50309–2196
(515) 284–4663

Kansas

USDA Rural Development State Office
Suite 100
1303 SW First American Place
Topeka, KS 66604
(785) 271–2700

Kentucky

USDA Rural Development State Office
771 Corporate Drive, Suite 200
Lexington, KY 40503
(859) 224–7300

Louisiana

USDA Rural Development State Office
3727 Government Street
Alexandria, LA 71302
(318) 473–7921

Maine

USDA Rural Development State Office
P. O. Box 405
967 Illinois Avenue, Suite 4
Bangor, ME 04402–0405
(207) 990–9106

Massachusetts/Rhode Island/Connecticut

USDA Rural Development State Office
451 West Street, Suite 2
Amherst, MA 01002–2999
(413) 253–4300

Michigan

USDA Rural Development State Office
3001 Coolidge Road, Suite 200
East Lansing, MI 48823
(517) 324–5100

Minnesota

USDA Rural Development State Office
410 AgriBank Building
375 Jackson Street
St. Paul, MN 55101–1853
(651) 602–7800

Mississippi

USDA Rural Development State Office
Federal Building, Suite 831
100 West Capitol Street
Jackson, MS 39269
(601) 965–4316

Missouri

USDA Rural Development State Office
601 Business Loop 70 West
Parkade Center, Suite 235
Columbia, MO 65203
(573) 876–0976

Montana

USDA Rural Development State Office
P. O. Box 771
900 Technology Blvd., Unit 1, Suite B
Bozeman, MT 59715
(406) 585–2580

Nebraska

USDA Rural Development State Office
Federal Building, Room 152
100 Centennial Mall North
Lincoln, NE 68508
(402) 437–5551

Nevada

USDA Rural Development State Office
1390 South Curry Street
Carson City, NV 89703–9910
(775) 887–1222

New Jersey

USDA Rural Development State Office
Tarnsfield Plaza, Suite 22
790 Woodlane Road
Mt. Holly, NJ 08060
(609) 265–3600

New Mexico

USDA Rural Development State Office
6200 Jefferson Street, NE.
Room 255
Albuquerque, NM 87109
(505) 761–4950

New York

USDA Rural Development State Office
The Galleries of Syracuse
441 South Salina Street, Suite 357
Syracuse, NY 13202–2541
(315) 477–6400

North Carolina

USDA Rural Development State Office
4405 Bland Road, Suite 260
Raleigh, NC 27609
(919) 873–2000

North Dakota

USDA Rural Development State Office
P. O. Box 1737
Federal Building, Room 208

220 East Rosser Avenue
Bismarck, ND 58502–1737
(701) 530–2037

Ohio

USDA Rural Development State Office

Federal Building, Room 507
200 North High Street
Columbus, OH 43215–2418
(614) 255–2500

Oklahoma

USDA Rural Development State
Office 100 USDA, Suite 108
Stillwater, OK 74074–2654
(405) 742–1000

Oregon

USDA Rural Development State Office
101 SW Main Street, Suite 1410
Portland, OR 97204–3222
(503) 414–3300

Pennsylvania

USDA Rural Development State Office
One Credit Union Place, Suite 330
Harrisburg, PA 17110–2996
(717) 237–2299

Puerto Rico

USDA Rural Development State Office
654 Munoz Rivera Avenue
IBM Plaza, Suite 601
Hato Rey, Puerto Rico 00918–6106
(787) 766–5095

South Carolina

USDA Rural Development State Office
Strom Thurmond Federal Building
1835 Assembly Street, Room 1007
Columbia, SC 29201
(803) 765–5163

South Dakota

USDA Rural Development State Office
Federal Building, Room 210
200 4th Street, SW.
Huron, SD 57350
(605) 352–1100

Tennessee

USDA Rural Development State Office
3322 West End Avenue, Suite 300
Nashville, TN 37203–1084
(615) 783–1300

Texas

USDA Rural Development State Office
Federal Building, Suite 102
101 South Main Street
Temple, TX 76501
(254) 742–9700

Utah

USDA Rural Development State Office
Wallace F. Bennett Federal Building
125 South State Street, Room 4311
P. O. Box 11350
Salt Lake City, UT 84147–0350
(801) 524–4321

Vermont/New Hampshire

USDA Rural Development State Office
City Center, 3rd Floor 89 Main Street
Montpelier, VT 05602
(802) 828–6010

Virginia

USDA Rural Development State Office
Culpeper Building, Suite 238
1606 Santa Rosa Road
Richmond, VA 23229–5014
(804) 287–1550

Washington

USDA Rural Development State Office
1835 Black Lake Boulevard, SW.
Suite B
Olympia, WA 98512–5715
(360) 704–7740

West Virginia

USDA Rural Development State Office
Federal Building 75 High Street, Room 320
Morgantown, WV 26505–7500
(304) 284–4860

Wisconsin

USDA Rural Development State Office
4949 Kirschling Court
Stevens Point, WI 54481
(715) 345–7610

Wyoming

USDA Rural Development State Office
Federal Building, Room 1005
100 East B Street
P. O. Box 820
Casper, WY 82602
(307) 261–6300

SUPPLEMENTARY INFORMATON:

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements pertaining to this Notice are approved by the Office of Management and Budget (OMB) and were assigned OMB control number 0570–0024.

The RBOG program is authorized under section 306 of the Consolidated Farm and Rural Development Act (CONACT) (7 USC 1926(a)(11)). The Rural Development State Offices administer the RBOG program on behalf of RBS at the state level. The primary objective of the program is to improve the economic conditions of rural areas. Assistance provided to rural areas under this program may include technical assistance for business development and economic development planning.

A total of $2,100,000 of non-earmarked funds is available for the RBOG program for FY 2002. To ensure that a broad range of communities have the opportunity to benefit from the available funds, no grant will exceed $50,000, unless it is a multi-state project where funds may not exceed $150,000. Pursuant to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 2002 (Pub. L. No. 107–76) a total of $3,000,000 has been earmarked for Native Americans, the Mississippi Delta area, and Empowerment Zones, Enterprise Communities, and Rural Economic Area Partnerships. There is no project dollar amount limitation on applications for earmarked funds. Awards are made on a competitive basis using specific selection criteria contained in 7 CFR part 4284, subpart G. 7 CFR part 4284, subpart G, also contains the information required to be in the application package. The State Director may assign up to 15 discretionary points to an application, and the Agency Administrator may assign up to 20 additional discretionary points based on geographic distribution of funds, special importance for implementation of a strategic plan in partnership with other organizations, or extraordinary potential for success due to superior project plans or qualifications of the grantee. The projects that score the greatest number of points based on the selection criteria and discretionary points will be selected. Applications will be tentatively scored by the State Offices and submitted to the National Office for review, final scoring, and selection.

The National Office will review the scores based on the grant selection criteria and weights contained in 7 CFR part 4284, subpart G. All applicants will be notified by RBS of the Agency decision on the awards.

Dated: February 14, 2002.

John Rosso,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 02–4407 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Arizona Electric Power Cooperative, Inc.; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from

Arizona Electric Power Cooperative (AEPCO) for assistance from RUS to finance the construction and operation of a 40 MW gas turbine generation facility at the Apache Generating Station located in Cochise County, Arizona.

FOR FUTHER INFORMATION CONTACT: Dennis E. Rankin, Environmental Protection Specialist, RUS, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone: (202) 720–1953 or e-mail: *drankin@rus.usda.gov*.

SUPPLEMENTARY INFORMATION: AEPCO is proposing to install a 40 MW GE model LM6000 Sprint gas combustion turbine generation facility and modify the switchyard at their existing Apache Generating Station which is located at 3525 North Highway 191 South near Cochise, Arizona. Gas Turbine #4 will be configured to operate in the simple cycle mode. A new 100-foot tall stack will be required. Approximately 0.5 acres of the existing Apache Generation site will be needed for the proposed project. The existing plant infrastructure will be utilized for the new generation addition including gas lines, cooling water and transmission facilities.

Copies of the Environmental Assessment and FONSI are available at, or can be obtained from, RUS at the address provided herein, or from Ms. Teri McCaulou, AEPCO, 1000 South Highway 80, Benson, Arizona 85602, telephone: (520) 586–5122.

Dated: January 31, 2002.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–4408 Filed 2–25–02; 8:45 am]

BILLING CODE 3410–15–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC on Tuesday and Wednesday, March 12–13, 2002, at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, March 12, 2002

11:00 a.m.–Noon
Ad Hoc Committee—Public Rights-of-Way (Closed Meeting)
1:30 p.m.–5:00
Ad Hoc Committee—Public Rights-of-Way (Closed Meeting)

Wednesday, March 13, 2002

9:00 a.m.–10:00
Planning and Budget Committee
10:00 a.m.–11:00
Technical Programs Committee
11:00 a.m.–Noon
Nominating Committee
1:30 a.m.–3:00
Board Meeting

ADDRESSES: The meetings will be held at the Marriott at Metro Center Hotel, 775 12th Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–0001 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items.

Open Meeting

- Executive Director's report
- Approval of the minutes of the January 9, 2002 board meeting
- Technical Programs Committee: On-going research and technical assistance projects.
- Planning and Budget Committee: Budget spending plan for fiscal year 2002; fiscal year 2003; and out-of-town meetings.
- Nominating Committee: Review of the Nominating Committee charter.

Closed Meeting

- Ad Hoc Committee on Public Rights-of-Way

All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 02–4430 Filed 2–22–02; 8:45 am]

BILLING CODE 8150–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 11 a.m. and adjourn at 4 p.m. on Wednesday, March 13, 2002, at the Metropolitan Wilmington Urban League, 100 W. 10th Street, Conference Room, Wilmington, Delaware 19801. The Advisory Committee will provide an orientation to members in administrative matters, disseminate newly revised copies of its report, Delaware Citizens Guide to Civil Rights and Supporting Services, and hold a briefing session to hear from invited speakers on civil rights issues affecting the state.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ed Darden of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 19, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–4453 Filed 2–22–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 6 p.m. and adjourn at 8 p.m. on March 19, 2002, at the Radisson Hotel & Conference Center, 4728 Constitution Avenue, Baton Rouge, Louisiana 70808. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 19, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–4454 Filed 2–22–02; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1210]

Grant of Authority for Subzone Status; Austal USA, LLC (Shipbuilding); Mobile, AL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

WHEREAS, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

WHEREAS, an application from the City of Mobile, Alabama, grantee of FTZ 82, for authority to establish special-purpose subzone status for the shipbuilding facility of Austal USA, LLC (Austal), in Mobile, Alabama, was filed by the Board on January 9, 2001, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 1–2001, 66 FR 3984, 1–17–2001); and,

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were given subject to the standard shipyard restriction on foreign steel mill products;

NOW, THEREFORE, the Board hereby grants authority for subzone status at the shipbuilding facility of Austal USA, LLC, in Mobile, Alabama (Subzone 82H), at the location described in the application, subject to the FTZ Act and the Board's regulations, including Section 400.28, and subject to the following special conditions:

1. Any foreign steel mill product admitted to the subzone, including plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to Customs duties in accordance with applicable law, unless the Executive Secretary determines that the same item is not then being produced by a domestic steel mill.

2. In addition to the annual report, Austal shall advise the Board's Executive Secretary (§ 400.28(a)(3)) as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

3. All foreign-origin quota-class merchandise must be admitted to the subzone under privileged domestic status (19 CFR 146.43(a)(2)).

Signed at Washington, DC, this 12th day of February 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 02–4429 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1207]

Grant of Authority; Establishment of a Foreign-Trade Zone, Butte County, California

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Oroville Economic Development Corporation, a California non-profit corporation (the Grantee), has made application to the Board (FTZ Docket 9–2001, filed 2/6/01) and amended on August 21, 2001 (66 FR 45278, 8/28/01), requesting the establishment of a foreign-trade zone at sites in Butte County, California, adjacent to the San Francisco/Oakland/Sacramento, California Customs port of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (66 FR 10668, 2/16/01); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 253, at the sites described in the application, and subject to the Act and the Board's regulations, including Section 400.28, and subject to the Board's standard 2,000-acre activation limit.

Foreign-Trade Zones Board.

Signed at Washington, DC, this 12th day of February, 2002.

Donald L. Evans,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 02–4427 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1209]

Grant of Authority for Subzone Status; Rolls-Royce Corporation (Gas Turbine Engines), Indianapolis, IN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

WHEREAS, the Foreign-Trade Zones Act provides for '' . . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

WHEREAS, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

WHEREAS, the Indianapolis Airport Authority, grantee of Foreign-Trade Zone 72, has made application to the Board for authority to establish special-purpose subzone status at the manufacturing facilities (gas turbine engines) of Rolls-Royce Corporation, located in Indianapolis, Indiana (FTZ Docket 38–2001, filed 9/18/2001);

WHEREAS, notice inviting public comment has been given in the **Federal Register** (66 FR 49161, 9/26/2001); and,

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application would be in the public interest;

NOW, THEREFORE, the Board hereby grants authority for subzone status at the gas-turbine engine manufacturing facilities of Rolls-Royce Corporation located in Indianapolis, Indiana (Subzone 72Q), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 12th day of February 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 02–4428 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; Amended Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative reviews.

SUMMARY: On December 19, 2000, the Department of Commerce published a retraction of the amended final results of reviews for the respondent-company FAG Kugelfischer Georg Schaefer AG with respect to the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany. The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The period of review is May 1, 1993, through April 30, 1994. At the time of our December 19th notice, one matter, relating to the above firm and the reviews of the orders on antifriction bearings and parts thereof from Germany, was pending before the United States Court of Appeals for the Federal Circuit. As there is now a final and conclusive court decision in this action, we are amending our final results of the reviews and we will subsequently instruct the Customs Service to liquidate entries subject to these reviews.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4733.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions in effect as of December 31, 1994. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations as codified at 19 CFR part 353 (1995).

SUPPLEMENTARY INFORMATION:

Background

On December 19, 2000, the Department of Commerce published a retraction of the amended final results of reviews for the respondent-company FAG Kugelfischer Georg Schaefer AG (FAG) with respect to the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany (see 65 FR 79341). The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The period of review is May 1, 1993, through April 30, 1994. At the time of our December 19th notice, one matter, relating to the reviews of the orders on antifriction bearings and parts thereof from Germany, was pending before the United States Court of Appeals for the Federal Circuit.

Pursuant to the remand order from the U.S. Court of International Trade (CIT) in SKF *USA Inc.* v. *United States*, Consol. Court No. 97–01–00054-S, Slip Op. 01–86 (CIT July 16, 2001), the Department of Commerce prepared the final results of redetermination. In accordance with the CIT's instructions, we reconsidered our calculation of FAG's general and administrative expenses, and we recalculated FAG's margins accordingly. As there is now a final and conclusive court decision in this action, we are amending our final results of reviews in this matter, and we will subsequently instruct the Customs Service to liquidate entries subject to these reviews.

Amendment to Final Results

Pursuant to section 516A(e) of the Tariff Act, we are now amending the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany, for the period May 1, 1993, through April 30, 1994. The revised weighted-average margins are as follows:

Company	BBs	CRBs	SPBs
Germany: FAG Kugelfischer Georg Schafer AG	12.33	12.50	2.10

Accordingly, the Department will determine and the Customs Service will assess appropriate antidumping duties on entries of the subject merchandise made by the firm covered by these reviews. Individual differences between United States price and foreign market value may vary from the percentages listed above. For the company covered by these amended results, the Department will issue appraisement instructions to the Customs Service after publication of these amended final results of reviews.

This notice is published pursuant to section 751(a) of the Tariff Act.

Dated: February 19, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–4425 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–822]

Certain Helical Spring Lock Washers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Administrative Duty Review.

SUMMARY: On July 11, 2001, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain helical spring lock washers from the People's Republic of China. We gave interested parties an opportunity to comment. Based upon our analysis of the comments and information received, we have made changes to the margin calculations presented in the final results of the review. We find that helical spring lock washers from the People's Republic of China are not being sold in the United States below normal value by the company reviewed. The final weighted-average dumping margin is listed below in the section entitled Final Results of the Review.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Sally Hastings, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3464.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department'') regulations are to 19 CFR part 351 (2000).

Background

On July 11, 2001, the Department published in the **Federal Register** the preliminary results of its administrative review of helical spring lock washers (''HSLWs'') from the People's Republic of China (''PRC'') (*Certain Helical Spring Lock Washers from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review,* 66 FR 36251 (July 11, 2001) (''*Preliminary Results*''). We received surrogate value information from the petitioner, Shakeproof Assembly Components Division of Illinois Tool Works Inc. (''petitioner''), and the respondent, Hang Zhou Spring Washer Co., Ltd. also known as Zhejiang Wanxin Group Co., Ltd. (''Hangzhou''), on July 31, 2001. The petitioner and the respondent submitted case briefs and rebuttal briefs on August 10 and 15, 2001, respectively. The Department has now completed the antidumping duty administrative review in accordance with section 751 of the Act.

Scope of Order

The products covered by this review are HSLWs of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non-heat-treated, plated or non-plated, with ends that are off-line. HSLWs are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screws or bolts; and, (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as copper.

HSLWs subject to this review are currently classifiable under subheading 7318.21.0030 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Period of Review

The period of review (''POR'') is from October 1, 1999 through September 30, 2000.

Comparisons

We calculated export price and normal value based on the same methodology used in the *Preliminary Results* with the following exceptions:

1. We used values that were more contemporaneous with the POR for steam coal, lubricating oil, nitric acid, hydrofluoric acid, caustic soda-lye, caustic soda, sodium hydroxide, chromicacid, sodium nitrate, barium carbonate, sodium cyanide, potassium chromate, methalymine, potassium aluminum sulfate, adhesive tape, packing sheet, plastic bags, cartons, steel scrap, packing strips, nails, and zinc dust

2. We used an Indonesian import value for hydrochloric acid.

3. We revised the value for inland shipping, using a different source and data more contemporaneous with the POR. We corrected errors in our calculation of shipping distances.

4. We corrected an error in the sales database.

5. For labor, we used the regression-based wage rate for the PRC, revised September, 2001, in ''Expected Wages of Selected NME Countries'' located on the Internet at *http://ia.ita.doc.gov/wages/99wages/99wages/htm.*

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding are addressed in the February 15, 2002, Issues and Decision Memorandum (''Decision Memorandum'') which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the Decision Memorandum. 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 Department. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/summary/list.htm.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of the Review

The weighted-average dumping margin for the period October 1, 1999 through September 30, 2000, is as follows:

Manufacturer/exporter	Time period	Margin (percent) (de minimis)
Hang Zhou Spring Washer Co., Ltd/Zhejiang Wanxin Group Co., Ltd	10/01/99–09/30/00	0.01

Because the duty assessment rates for Hangzhou are zero or *de minimis* (*i.e.,* less than 0.5 percent), we will instruct the Customs Service to liquidate entries made during this review period without regard to antidumping duties for subject merchandise exported by Hangzhou. All other entries of the subject merchandise during the POR will be liquidated at the antidumping rate in place at the time of entry.

Furthermore, the following deposit rates will be effective upon publication of these final results for all shipments of

HSLWs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act:

(1) For Hangzhou, which has had a separate rate in the investigation and all reviews, no deposit will be required because the company had a *de minimis* rate in this review; (2) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate, 128.63 percent, which is the All Other PRC Manufacturers, Producers and Exporters rate from the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the PRC,* 58 FR 48833 (September 20, 1993); and, (3) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit rates shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 15, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

List of Comments in the Issues and Decision Memorandum

Comment 1: Use of Import Prices to Value All Steel Wire Rod Inputs
Comment 2: Plating Operations: Factory Overhead, SG&A Expenses and Profit
Comment 3: Representativeness of Plating Factors of Production
Comment 4: Valuation of Hydrochloric Acid
Comment 5: Valuation of Inland Shipping Rate
Comment 6: Valuation of Potassium Aluminum Sulphate
Comment 7: Calculation of Factory Overhead Net of Scrap

[FR Doc. 02–4423 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–837, A–428–821]

Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan (A–588–837) and Germany (A–428–821): Notice of Final Results of Five-Year Sunset Reviews and Revocation of Antidumping Duty Orders.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of five-year sunset reviews and revocation of antidumping duty orders on large newspaper printing presses and components thereof, whether assembled or unassembled, from Japan (A–588–837) and Germany (A–428–821).

SUMMARY: On August 1, 2001, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on Large Newspaper Printing Presses (''LNPPs'') and Components Thereof, Whether Assembled or Unassembled, from Japan and Germany. One domestic interested party responded to the sunset review notice of initiation in these proceedings. However, on December 21, 2001, the domestic interested party withdrew its interest in these proceedings. Therefore, the Department is revoking the antidumping duty orders on LNPPs from Japan and Germany.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statue

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the ''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department'') regulations are to 19 CFR part 351 (2001).

Background

On September 4, 1996, the Department issued the antidumping duty orders on LNPPs from Japan (61 FR 46621) and Germany (61 FR 46623). Pursuant to section 751(c) of the Act and 19 CFR 351.218, the Department initiated sunset reviews of these orders by publishing a notice of the initiation in the **Federal Register** August 1, 2001 (66 FR 39731). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for this proceeding to inform them of the automatic initiation of sunset reviews of these orders.

On August 16, 2001, within the applicable deadline, the Department received notice of intent to participate from Goss Graphic Systems, Inc. (''Goss''), the only domestic interested party in the sunset proceedings. As such, the Department concluded that Goss provided an adequate response to participate in the sunset reviews on LNPPs from Japan and Germany. On August 31, 2001, Goss filed substantive responses with respect to LNPPs from Japan and Germany. In the sunset review on LNPPs from Japan, the Department did not receive any response from respondent interested parties; therefore, we determined to conduct an expedited sunset review. In the sunset review on LNPPs from Germany, the Department determined that domestic and respondent interested parties provided adequate response to conduct a full sunset review under section 751(c)(3)(B) of the Act, and §§ 351.218(e)(1)(i) and 351.218(e)(1)(ii). However, over the course of these reviews significant questions were raised concerning Goss' claim as to whether it was actually a domestic manufacturer of the subject merchandise. Consequently, in order to investigate this issue more fully, on November 19, 2001, the Department aligned the sunset review on LNPPs from Japan with the sunset review of the antidumping duty order on LNPPs from Germany. *See* 66 FR 58713 (November 23, 2001).[1] On December 21, 2001, Goss

[1] In this notice, the Department announced its intent to issue the preliminary results on LNPPs from Japan along with the preliminary results on LNPPs from Germany not later than February 19,

withdrew its participation in these proceedings. We interpret Goss' withdrawal of participation as a withdrawal of interest. Because Goss (the only domestic interested party in the sunset proceeding) withdrew its interest in these reviews, the Department has determined to treat this situation as if no domestic interested party responded to the notice of initiation of these sunset reviews. Therefore, we are not publishing preliminary determinations and are hereby revoking the antidumping duty orders on LNPPs from Japan and Germany.

Determination to Revoke

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the order.[2] Because the only domestic interested party withdrew its interest in both proceedings (*see* 351.218(d)(1)(i) and 351.218(e)(1)(i)(C)(1) of the *Sunset Regulations*), consistent with the provision of section 751(c)(3)(A) of the Act, we are revoking these antidumping duty orders.

Effective Date of Revocation

In accordance with sections 751(c)(3)(A) and 751(d)(2) of the Act, and 19 CFR 351.222(i)(2)(i), the Department will instruct the Customs Service to terminate the suspension of liquidation of the merchandise subject to the orders entered, or withdrawn from warehouse, on or after September 4, 2001. The instructions for entries of LNPPs from Germany will not be issued until either the conclusion of the ongoing litigation with respect to the final determination of the Department's less-than-fair value investigation of LNPPs from Germany, pursuant to which entries have been enjoined from liquidation, or the injunction has been lifted or amended. (*See Koenig & Bauer Albert* v. *United States,* Fed. Cir. Court No. 00–1387 (CIT 96–10–02298).) This injunction does not cover entries of subject merchandise from Japan. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: February 19, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–4426 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–P

2002, and its final results on both reviews on June 27, 2002.

[2] Although the statute requires revocation of an order within 90 days of initiating the sunset review when no party responds to the notice of initiation, in this case, Goss withdrew its participation after the 90-day period had expired.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain–On–Steel Cookware From Mexico: Initiation and Preliminary Results of Changed–Circumstances Antidumping Duty Administrative Review and Notice of Intent to Revoke the Order and to Rescind Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation and Preliminary Results of Changed–Circumstances Antidumping Duty Administrative Review and Notice of Intent to Revoke the Order and to Rescind Administrative Reviews.

SUMMARY: In response to a request from the petitioner, Columbian Home Products, LLC, that the Department of Commerce revoke the antidumping duty order on porcelain–on–steel cookware from Mexico, we are initiating a changed–circumstances administrative review and are issuing this notice of preliminary results and intent to revoke the antidumping duty order as of December 1, 1995. If these preliminary results become final, we intend to rescind the current antidumping duty administrative reviews, covering the periods December 1, 1999 through November 30, 2000, and December 1, 2000 through November 30, 2001. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Kate Johnson, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4007 and (202) 482–4929, 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 of Commerce's (''Department's'') regulations are to the regulations at 19 CFR Part 351 (April 2001).

Background

On January 30, 2002, the petitioner, Columbian Home Products, LLC (''Columbian''), requested that the Department revoke the antidumping duty order on porcelain–on–steel cookware from Mexico as of December 1, 1995, stating that it no longer has an interest in maintaining this order. Columbian is a domestic interested party and is the successor company to the petitioner in the less–than–fair–value investigation. Columbian stated that it is the only U.S. producer of porcelain–on–steel cookware, and therefore, it accounts for ''substantially all of the production of the domestic like product,'' within the meaning of section 782(h)(2) of the Act.

Scope of the Order

The products covered by this order are porcelain–on–steel cookware, including tea kettles, which do not have self–contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 7323.94.00. Kitchenware currently classifiable under HTSUS subheading 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Initiation and Preliminary Results of Changed–Circumstances Review and Intent to Revoke Order

Pursuant to section 751(d)(1) of the Act, the Department may revoke, in whole or in part, an antidumping duty order based on a review under section 751(b) of the Act (i.e., a changed–circumstances review). The Department's regulations at 19 CFR 351.216(d) require the Department to conduct a changed–circumstances review in accordance with 19 CFR 351.221 if it decides that changed circumstances sufficient to warrant a

review exist. Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that the Department may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3) permits the Department to combine the notices of initiation and preliminary results.

The petitioner is a domestic interested party as defined by section 771(9)(C) of the Act and 19 CFR 351.102(b). Columbian is the only U.S. producer of porcelain–on–steel cookware and therefore represents at least 85 percent of the domestic production of the domestic like product to which this order pertains, and thus accounts for ''substantially all'' of the production of the domestic like product. Therefore, based on the lack of interest by the domestic industry in the continued application of the antidumping duty order on porcelain–on–steel cookware from Mexico, we are initiating this changed–circumstances review. Because of the on–going and pending administrative reviews, we have determined that expedited action is warranted, and we are combining the notices of initiation and preliminary results. We have preliminarily determined that the petitioner's statement of no interest in the continuation of the order constitutes changed circumstances sufficient to warrant revocation of the order in whole. We are hereby notifying the public of our intent to revoke the antidumping duty order on porcelain–on–steel cookware from Mexico as of December 1, 1995.

If these preliminary results become final, we intend to rescind the current antidumping duty administrative reviews, covering the periods December 1, 1999 through November 30, 2000, and December 1, 2000 through November 30, 2001.

If final revocation of the order occurs, we intend to instruct the Customs Service to discontinue the suspension of liquidation and to refund any estimated antidumping duties collected for all unliquidated entries of porcelain–on–steel cookware from Mexico entered, or withdrawn from warehouse, for consumption on or after December 1, 1995. We will also instruct the Customs Service to pay interest on any refunds with respect to the subject merchandise entered, or withdrawn from warehouse, for consumption on or after December 1, 1995, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed–circumstances review.

Public Comment

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Any interested party may request a hearing within 10 days of the date of publication of this notice. Any hearing, if requested, will be held no later than 21 days after the date of publication of this notice, or the first workday thereafter. Case briefs may be submitted by interested parties not later than 7 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in the case briefs, may be filed not later than 12 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303 and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed–circumstances review, including the results of its analysis of issues raised in any written comments.

We are issuing and publishing this determination and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.222.

February 14, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–4421 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–825]

Stainless Steel Sheet and Strip in Coils from Germany; Antidumping Duty Administrative Review; Time Limits

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for the preliminary results of the 2000–2001 administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Germany. This review covers one manufacturer/exporter of the subject merchandise to the United States and the period July 1, 2000 through June 30, 2001.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Tran at (202) 482–1121 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 NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On August 20, 2001, in response to requests from the respondent and petitioners, we published a notice of initiation of this administrative review in the Federal Register. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 66 FR 43570. Pursuant to the time limits for administrative reviews set forth in section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the current deadlines are April 2, 2002 for the preliminary results and July 31, 2002 for the final results. It is not practicable to complete this review within the normal statutory time limit due to a number of significant case issues, such as major inputs purchased from affiliated and unaffiliated suppliers and the use of downstream sales. Therefore, the Department is extending the time limits for completion of the preliminary results until July 31, 2002 in accordance with section 751(a)(3)(A) of the Act. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Act.

February 15, 2002

Joseph A. Spetrini

Deputy Assistant Secretary for Import Administration, Group III

[FR Doc. 02–4422 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–437–804, A–471–806]

Notice of Postponement of Preliminary Determinations of Antidumping Investigations: Sulfanilic Acid from Hungary and Portugal

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder (Hungary) at (202) 482–0189 or Anthony Grasso (Portugal) at (202) 482–3853, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

APPLICABLE STATUTE AND REGULATIONS:

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

POSTPONEMENT OF PRELIMINARY DETERMINATIONS:

On October 26, 2001, the Department published the initiation of the antidumping duty investigations of imports of sulfanilic acid from Hungary and Portugal. See Notice of Initiation of Antidumping Duty Investigations: Sulfanilic Acid from Hungary and Portugal, 66 FR 54214, 54218 (October 26, 2001). The notice of initiation stated that we would make our preliminary determinations for these antidumping duty investigations no later than 140 days after the date of issuance of the initiation (i.e., March 7, 2002).

On February 14, 2002, the Nation Ford Chemical Company (''the petitioner'') made a timely request pursuant to 19 CFR 351.205(e) for a 30–day postponement of the preliminary determinations, or until April 8, 2002. The petitioner requested postponement of the preliminary determinations because it believes that the Department will need additional time than allotted under the current schedule to collect from the respondents the information necessary to make accurate preliminary determinations. Additionally, the petitioner made this request for both Hungary and Portugal in order to keep both investigations on identical schedules.

For the reasons identified by the petitioner, and because there are no compelling reasons to deny the request, we are postponing the preliminary determinations under section 733(c)(1) of the Act. We will make our preliminary determinations no later than April 8, 2002.

This notice is published pursuant to sections 733(f) and 777(i) of the Act.

February 15, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–4424 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022002A]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings.

DATES: The meetings will be held on March 11-15, 2002.

ADDRESSES: These meetings will be held at the Adam's Mark Hotel, 64 South Water Street, Mobile, AL 36602; telephone: 251–438–4000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228-2815.

SUPPLEMENTARY INFORMATION:

Council

March 13

8:30 a.m.--Convene.

8:45 a.m.-- 12 noon--Receive public testimony on Draft Shrimp Amendment 10/Environmental Assessment/ Regulatory Impact Review (EA/RIR), the Red Grouper Amendment, total allowable catch (TAC) recommendations for gag grouper, a greater amberjack rebuilding program, and a coastal migratory pelagic (CMP) status determination criteria. Although the Council will hear public testimony on the Red Grouper Amendment, final action will not be taken until the July 8-12, 2002 Council meeting in Sarasota, FL.

1:30 p.m.- 5:30 p.m.--Continue public testimony if necessary.

March 14

8:30 a.m.-- 9:30 a.m.--Receive a report of the Shrimp Management Committee.

9:30 a.m.- 5:00 p.m.--Receive the report of the Reef Fish Management Committee.

March 15

8:30 a.m. - 9 a.m.--Receive a report of the Personnel Committee.

9 a.m. - 9:30 a.m--Receive a report of the Mackerel Management Committee.

9:30 a.m. - 9:45 a.m.--Receive a report of the International Commission for the Conservation of Atlantic Tunas Advisory Committee.

9:45 a.m. - 10 a.m.--Receive a report of the South Atlantic Fishery Management Council Liaison.

10 a.m. - 10:15 a.m.--Receive Enforcement Reports.

10:15 a.m. - 10:30 a.m.--Receive the NMFS Regional Administrator's Report.

10:30 a.m. - 11 a.m.--Receive Director's Reports.

11 a.m. - 11:15 a.m.--Other Business.

March 11

10:30 a.m. - 12 noon--Convene the Mackerel Management Committee to develop recommendations for mackerel and cobia status determination criteria. The full Council will consider these recommendations on Friday morning.

1:30 p.m. - 4:30 p.m.--Convene the Shrimp Management Committee to hear a staff presentation on a revised Draft Shrimp Amendment 10/EA/RIR and develop recommendations for final action by the full Council on Thursday morning.

4:30 p.m. - 5:30 p.m.--(CLOSED SESSION) Briefing on litigation.

March 12

8:30 a.m. - 12 noon--Convene the Reef Fish Management Committee to review a draft Red Grouper Amendment containing alternatives for rebuilding of the red grouper stock. The committee will also discuss TAC recommendations for gag, and a greater amberjack rebuilding program. The full Council will consider these recommendations on Thursday.

1:30 p.m. - 5 p.m.--Continue the Reef Fish Management Committee.

Although non-emergency issues not contained in the agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens

Fishery Conservation and Management Act (MSFCMA), those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the MSFCMA, provided the public has been notified of the Council's intent to take final action to address the emergency.

A copy of the Committee schedule and agenda can be obtained by calling (813) 228–2815.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by March 4, 2002.

Dated: February 20, 2002.

William D. Chappell,

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

[FR Doc. 02–4450 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021402A]

Endangered Species; Permits

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

ACTION: Receipt of request to modify research Permit 1189.

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 a request to modify Permit (1189) from Dr. James Kirk, of USAE Waterways Experiment Station.

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 27, 2002.

ADDRESSES: Written comments on the modification request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the modification request. Comments will not be accepted if submitted via e-mail or the Internet. The application 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:

Fish

Endangered Shortnose Sturgeon (*Acipenser brevirostrum*)

Modification Requests Received

The applicant requests a modification to Permit 1189. Permit 1189 authorizes the capture of up to 300 juvenile shortnose sturgeon by gill net and trot line. Up to 20 of these may be surgically implanted with radio/sonic tags. Modification #3 would also allow the use of trawling for the purpose of capturing shortnose sturgeon less than 8 years old.

Dated: February 19, 2002.

Ann Terbush,

Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–4448 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021402E]

Marine Mammals; File Application No. 1004–1656

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

ACTION: Notice of reopening of comment period.

SUMMARY: The National Marine Fisheries Service is reopening the comment period for the application submitted by Funtime, Inc. d/b/a Six Flags Worlds of Adventure, 1060 North Aurora Road, Aurora, OH 44202, to import two killer whales (*Orcinus orca*) for the purposes of public display.

DATES: Written or telefaxed comments must be received on or before March 27, 2002.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Glouster, MA, 01930–2298 (978/281–9116).

Written comments or requests should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910.

Comments may also be submitted by facsimile at (301) 713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan,(301/713–2289).

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

A notice of receipt of this application was published on November 30, 2001 (66 FR 59781). The comment period closed on December 31, 2001. Based on substantive comments received during the initial comment period, NMFS requested additional information from the applicant. On February 12, 2002, the applicant submitted additional information in support of their application. This action, reopening of the comment period, will allow all interested parties to review the new information and provide NMFS with any additional comments regarding this application. In reopening this comment period NMFS finds that a public hearing is not warranted because NMFS has determined that the issues raised by the comments can be clarified in writing. However, NMFS is providing through this action an opportunity for additional written comments or requests.

Dated: February 19, 2002.

Ann D. Terbush,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–4449 Filed 2–22–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Headquarters Air Force Personnel Center.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Community College of the Air force announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Considerations will be given to all comments received by April 26, 2002.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Plans and Research Division, Community College of the Air Force, CCAF/DFI, 130 W. Maxwell Blvd., Maxwell AFB, AL 36112–6613.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to the above address, or call the Community College of the Air Force Institutional Effectiveness Division at (334) 953–2703.

Title, Associated Form, and OMB Number: Community College of the Air Force Alumni Survey, OMB Number 0701–0136.

Needs and Uses: The information collection requirement is necessary to determine how effectively the institution is meeting its mission and also identify areas needing improvement. Survey results will provide data on the usefulness and acceptance of the Community College of the Air Force degree in the civilian sector. Documenting the institution's effectiveness is also required to maintain the Community College of the Air Force's regional accreditation.

Affected Public: Separated and retired Community College of the Air Force graduates.

Annual Burden Hours: 133.

Number of Respondents: 400.

Responses per Respondent: 1.

Average Burden Per Response: 20 minutes.

Frequency: Biennial.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents will be separated and retired Community College of the Air Force graduates. Approximately 2,000 Community College of the Air Force graduates will be surveyed biennially to determine the effectiveness of the institution and the usefulness of the Community College of the Air Force degree in the civilian sector. A notification letter will be mailed directly to respondents' home addresses inviting them to complete the Alumni Survey on the Community College of the Air Force's Internet homepage. The survey will take about 20 minutes to complete, and we expect to have about 400 responses. Survey results will be compiled and evaluated at the Community College of the Air Force Administrative Center at Maxwell Air Force Base, Alabama. While results will be used primarily in-house to make program improvements, findings may be publicized in the Air Force and civilian education communities.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–4361 Filed 2–22–02; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Community College of the Air Force

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting to review and discuss academic policies and issues relative to the operation of the college. Agenda items include a review of the operations of the CCAF and an update on the activities of the CCAF Policy Council.

Members of the public who wish to make oral or written statements at the meeting should contact Second Lieutenant Richard W. Randolph, Designated Federal Officer for the Board, at the address below no later than 4 p.m. on March 19, 2002. Please mail or electronically mail all requests. Telephone requests will not be honored. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of the presentation materials must be given to Second Lieutenant Richard Randolph no later than three days prior to the time of the board meeting for distribution. Visual aids must be submitted to Second Lieutenant Richard Randolph on a 3 ½″ computer disc in Microsoft PowerPoint format no later than 4 p.m. on March 19, 2002 to allow sufficient time for virus scanning and formatting of the slides.

DATES: April 9, 2002.

ADDRESSES: Commanders Conference Center [Building 905], First Floor Conference Room, Randolph Air Force Base, San Antonio, Texas 78150–4324.

FOR FURTHER INFORMATION CONTACT: Second Lieutenant Richard Randolph, (334) 953–7322, Community College of

the Air Force, 130 West Maxwell Boulevard, Maxwell Air Force Base, Alabama, 36112–6613, or through electronic mail at *Richard.Randolph@maxwell.af.mil.*

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–4362 Filed 2–22–02; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Corps of Engineer, Department of the Army

Intent To Prepare A Draft Tier II Environment Impact Statement (DEIS) for the Savannah Harbor Expansion Project, Savannah, Georgia

AGENCY: US Army Corps of Engineers, DOD.

ACTION: Notice of Intent—Correction.

SUMMARY OF THE ACTION: The U.S. Army Corps of Engineers published a Notice Of Intent to Prepare a Draft Tier II Environment Impact Statement (DEIS) for the Savannah Harbor Expansion Project, Savannah, Georgia in the **Federal Register** on January 22, 2002. A portion of the address contained in contact information was incorrect. The correct information is as follows: Questions or written comments about the proposed action and DEIS should be provided by March 7, 2002 to: Mr. William Bailey at 912–652–5781, e-mail address *shep@sas02.usace.army.mil*, or at US Army Corps of Engineers, Savannah District, ATTN: PD–E, Post Office Box 889, Savannah, Georgia 31402.

Dated: February 19, 2002.

David V. Schmidt,

Chief, Planning Division.

[FR Doc. 02–4365 Filed 2–22–02; 8:45 am]

BILLING CODE 3710–HP–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by March 18, 2002. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 26, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: February 19, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Application for State Grants for Reading First.

Abstract: This application will be used to award grants to State educational agencies to improve K–3 reading instruction and student achievement through the application of scientifically based reading research, and the proven instructional and assessment tools consistent with this research.

Additional Information: The Department of Education is requesting emergency processing for the Reading First Application by March 18 due to an unanticipated event and possibly causing public harm. The late passage and signing of this legislation leaves the Department with no choice but to request an emergency collection if it is to meet the goal of awarding grant funds to states with approved applications on July 1. If normal processing were to be followed, States would not have sufficient time to prepare high quality applications and make revisions as necessary before July 1, 2002, and funds would not be received in time.

Frequency: Other: Grants awarded for a period of six years; SEAs not required to reapply until that period ends.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 57; Burden Hours: 3,306.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, *vivian.reese@ed.gov*, or should be electronically mailed to the internet address *OCIO_RIMG@ed.gov*, or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at (540) 776–7742 or via her internet address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–4351 Filed 2–22–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory (NETL), Department of Energy (DOE).

ACTION: Notice of availability of a financial assistance solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE-PS26–02NT41450 entitled Mining Industry of the Future/ mineral Processing Technologies. The U.S. Department of Energy (DOE) Office of Industrial Technologies (OIT) in collaboration with the National Mining Association (NMA) is seeking industry-led proposals for cost-shared research and development of technologies which will reduce energy consumption, enhance economic competitiveness and reduce environmental impacts of the domestic mining industry. The research is to address research priorities identified by the Mining Industry of the Future Mineral Processing Technology Roadmap (the Roadmap can be accessed on the Internet at: *http://www.oit.doe.gov/mining/pdfs/mptroadmap.pdf*). In particular, the roadmap identifies three (3) areas of mineral processing technology where the most impact and the greatest progress towards the mining vision goals can be expected: (1) *Mineral Preparation*—typical processes include communition, makedown, classification, and, to some extent, blasting and drilling; (2) *Physical Separations*—typical processes include flotation, dewatering, thickening or settling, filtering, drying, flocculation, screening, magnetic separation, classification and washing; and (3) *Chemical Separations*—typical processes include pelletizing or briquetting, smelting, refining, leaching, solvent extraction, bioleaching and electrowinning.

DATES: The solicitation will be available on the ''Industry Interactive Procurement System'' (IIPS) Web page at *http://e-center.doe.gov* on or about February 27, 2002. It is further anticipated that applications will be due approximately ninety (90) days from the date the solicitation is released. Applicants can download the solicitation from the IIPS Internet address above or obtain access through DOE/NETL's Web site at *http://www.netl.doe.gov/business*. Paper copies are not available.

FOR FURTHER INFORMATION CONTACT: Donna Jaskolka, Contract Specialist, MS 921–107, U.S. Department of Energy, National Energy Technology Laboratory, Acquisition and Assistance Division (BL–10), P.O. Box 10940, Pittsburgh, PA 15236–0940, E-mail Address: *jaskolka@netl.doe.gov*

SUPPLEMENTARY INFORMATION: The DOE Office of Industrial Technologies does not fund product development R&D. Applications submitted in response to this solicitation will only be funded if the proposed research and development addresses improving the energy efficiency of mineral processing technologies. Applications for literature reviews *only* will not be considered. Additionally, applications offering emissions or waste disposal, remediation, or treatment as a primary focus are not eligible for funding under this solicitation. This limitation does not include applications that target materials recycling or by-product utilization as their primary focus.

The U. S. Congress looks to the Department of Energy (DOE) to work toward improving the energy efficiency of America's most energy-intensive industries with special interest on industrial processing. DOE, through its Office of Industrial Technologies (OIT), supports industries in their efforts to increase energy efficiency, reduce waste, and increase productivity. The goal of OIT is to accelerate the development and use of advanced, energy efficient, renewable, and pollution prevention technologies that benefit industry, the environment, and U.S. energy security. OIT's core program is the Industries of the Future (IOF) Program that focuses on basic materials and processing industries such as the Mining Industry. In June 1998, the National Mining Association (NMA) and the Secretary of Energy signed a Compact pledging to work together through research and development partnerships. The objective of Solicitation No. DE–PS26–02NT41450 is another step in continuing to support this pledge by funding research and development projects which address research needs described in the Mineral Processing Technology Roadmap. The three key industry-identified areas, as presented in the Mineral Processing Technology Roadmap and which form the bases for the areas of interest under this solicitation, are: Mineral preparation, physical separations, and chemical separations. Additional background information is provided in the National Mining Association's Report, ''The Future Begins with Mining, A Vision of the Mining Industry of the Future (Sept. 1998)'', which can be accessed at: *http://www.oit.doe.gov/mining/pdfs/vision.pdf*. No fiscal year 2002 (FY02) funds are available for this solicitation; selection and negotiation of successful offers leading to award of cost-shared financial assistance cooperative agreements is subject to availability of funding in FY03 and beyond. An estimated $3.9 million in DOE funds is planned for this initiative as follows: approximately $1.3 million in FY03; $1.4 million in FY04; and $1.2 million in FY05. Selection of successful offers are expected to be made on or before January 1, 2003, subject to availability of funding, with completion of negotiations and issuance of awards anticipated to occur within a reasonable timeframe thereafter. Multiple (three to ten) awards are contemplated.

A minimum fifty percent (50%) cost-share is required, i.e., if the total proposed project cost is estimated as $2 million, the government's share would be no more than $1 million and the recipient's share would be no less than $1 million.

Any for-profit or non-profit organization, university or other institution of higher education, or non-federal agency or entity is eligible to apply, unless otherwise restricted by the Simpson-Craig amendment. Applicants for financial assistance under this solicitation are subject to the eligibility requirements of section 2306 of the Energy Policy Act of 1992 (EPAct), Foreign Company Participation. EPAct provides further guidelines for companies who apply for financial assistance herein where the company's participation is to be in the economic interest of the U.S. and the company must either be U.S.-owned or incorporated in the U.S. with its parent company incorporated in a country that provides similar protections and privileges under U.S. law. Applications submitted by or on behalf of (1) Another Federal agency, a Federally-funded Research and Development Center (FFRDC) or (3) a DOE Management and Operating (M&O) contractor will not be eligible for award under this solicitation. However, these organizations may be proposed as team members subject to the guidelines provided in the solicitation. Applicants must include at least two (2) mining companies as members of the multi-disciplinary team. Multi-partner collaborations are encouraged.

Once released, the solicitation will be available for downloading from the Industry Interactive Procurement System (IIPS) Internet page (*http://e-center.doe.gov*). You must register with IIPS, to enable you to submit an application. If you need technical assistance in registering, or for any other

IIPS function, call the IIPS Help Desk at (800) 683–0751 or E-mail the Help Desk personnel at *IIPS_HelpDesk@e-center.doe.gov* (do not contact the Contract Specialist). The solicitation will only be made available through IIPS, no hard (paper) copies of the solicitation and related documents will be distributed.

Prospective applicants who would like to be notified as soon as the solicitation is available should subscribe to the Business Alert Mailing List at *http://www.netl.doe.gov/business*. Once you subscribe, you will receive an announcement by E-mail that the solicitation has been released to the public. Telephone requests, written requests, e-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms referenced in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA, on February 14, 2002.

Dale A. Siciliano,

Deputy Director, Acquisition and Assistance Division.

[FR Doc. 02–4393 Filed 2–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency informaiton collection activities: proposed collection; comment request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The EIA is soliciting comments on the proposed revision and three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 of the surveys in the Natural Gas Data Collection Program Package. The surveys covered by this request for comment include Form EIA–176, ''Annual Report of Natural and Supplemental Gas Supply and Disposition;'' EIA–191, ''Monthly Underground Gas Storage Report,'' EIA–857, ''Monthly Report of Natural Gas Purchases and Deliveries to Consumers;'' EIA-895, ''Monthly Quantity and Value of Natural Gas Production Report;'' EIA–910, ''Monthly Natural Gas Marketer Survey;'' and EIA–912, ''Weekly Underground Natural Gas Storage Report.''

DATES: Comments must be filed by April 26, 2002. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Sylvia Norris, Natural Gas Division, Office of Oil and Gas, Energy Information Administration. To ensure receipt of the comments by the due date, submission by fax (202–586–4420) or e-mail (*sylvia.norris@eia.doe.gov*) is recommended. The mailing address is Sylvia Norris, Energy Information Administration, U.S. Department of Energy, P.O. Box 8279, Silver Spring, MD 20907. Also, Ms. Norris may be contacted by telephone at 202–586–6106.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions should be directed to Ms. Norris at the address listed above.

Also, the draft forms and instructions are available on the EIA Web site at http://www.eia.doe.gov/oil_gas/fwd/proposed.html.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer-term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under section 3507(h)(1) of the Paperwork Reduction Act of 1995.

The natural gas surveys included in the Natural Gas Data Collection Program Package collect information on natural gas production, underground storage, transmission, distribution, consumption by sector, and wellhead and consumer prices. This information is used to support public policy analyses of the natural gas industry and is posted to the EIA Web site (*www.eia.doe.gov*) in various EIA products, including the *Natural Gas Weekly Update, Natural Gas Monthly, Natural Gas Annual, Monthly Energy Review, and Annual Energy Review.* Respondents to natural gas surveys include State agencies, underground storage operators, transporters, marketers, and distributors. The forms are discussed in detail below.

EIA–176, ''Annual Report of Natural and Supplemental Gas Supply and Disposition''

The Form EIA–176 provides EIA with the major elements of information required in conjunction with data collected in other EIA surveys to develop annual gas supply and disposition balances and relevant cost, price, and related information at the State level.

The information collected on the Form EIA–176 is needed and used for the following purposes:

(1) To develop and make available to Congress, the States, and the public an accurate quantified overview of the supply of natural and supplemental gas available to each of the States from all sources both internal and external to the State, and the manner in which such supply was utilized or otherwise disposed of,

(2) To determine the quantity of natural and supplemental gas consumed within each of the States by market sector, the average sales prices for such gas, and the changes in consumption and price patterns over time, and

(3) For dissemination in various EIA data products including the *Natural Gas Annual (NGA), Natural Gas Monthly (NGM), Annual Energy Review (AER), Annual Energy Outlook (AEO), Short-Term Energy Outlook (STEO), Winter Fuels Report*, and *Monthly Energy Review (MER)*, which are widely used by both public and private organizations and individuals.

EIA–191, ''Monthly Underground Gas Storage Report''

Form EIA–191 requests monthly data on the location, capacity, and operations of all active underground natural gas storage fields. Storage data are a critical

link in understanding the deliverability of the natural gas system of the United States and overall system operations.

The information collected on Form EIA–191 will be used in the following ways:

(1) To provide State-level data on underground natural gas storage with respect to injections, withdrawals, inventories, type of storage facility, location, and capacity. These data will be made available to EIA's *NGM, NGA, MER, and AER.* Monthly data collection also provides reliable baseline data on storage operations necessary for analyses, modeling, and comparison with normal industry operations in cases of severe weather, natural disaster, or other extreme circumstances,

(2) To provide data on underground natural gas storage inventories for EIA's *AEO* and *STEO*, and

(3) To provide data on all aspects of underground natural gas storage to enable EIA and other elements of DOE to identify and assess the supplies of gas in storage by geographic location.

EIA–857, ''Monthly Report of Natural Gas Purchases and Deliveries to Consumers''

Monthly State-level data collected on the Form EIA–857 consist of average price of natural gas purchased by local distribution companies at their city gates, consumption of natural gas by sector, and average sales price by sector. These data are necessary to provide timely information needed to measure the combined impact of government, industry, and consumer actions; geographic location; climatic conditions; and other factors on the natural gas industry and natural gas consumers.

The data collected on the Form EIA–857 are used to develop information for publication in EIA's *STEO, NGM, Winter Fuels Report,* and *MER,* and to make the data available to Congress, State governments, industry, and the public.

EIA–895, ''Monthly Quantity and Value of Natural Gas Production Report''

Form EIA–895 collects monthly information from the appropriate State agencies concerning natural gas production. It provides details on gross withdrawals from gas and oil wells and from coalbed methane wells, volumes vented and flared, volumes of nonhydrocarbon gases removed, gas used as fuel on leases, and the amount of natural gas available for market. These data are routinely collected by the States for taxation, conservation, or statistical purposes. The aggregate data are published in the *NGM, NGA, MER, Winter Fuels Report,* and *AER.*

EIA–910, ''Monthly Natural Gas Marketer Survey''

Form EIA–910 collects monthly information for developing accurate estimates of State-level prices paid by residential and commercial consumers of natural gas. Data from the EIA–910 are combined with data from other EIA natural gas surveys to produce more complete and accurate price estimates than are currently available from data based on the EIA–857. The data are incorporated into EIA's monthly publications, used by modelers and analysts, and used to answer questions from policymakers, Congress, and the general public.

EIA–912, ''Weekly Underground Natural Gas Storage Report''

EIA has developed a survey instrument and report format to provide a weekly data series on underground storage of natural gas similar to that currently published by the American Gas Association. AGA has announced that it will discontinue its data collection by May 1, 2002. The EIA–912 data collection responds to requests to provide weekly measures of natural gas underground storage operations. EIA has received emergency clearance for the operation of the new series and will release data from the survey on May 9, 2002. However, EIA must obtain a standard (3-year) clearance for the survey and will include a request for a standard (non-emergency) clearance in its Natural Gas Data Collection Program Package to be sent to OMB for approval in September 2002.

EIA will use the data to prepare analytical products assessing storage operations in the three AGA regions and their impact on supplies available for the winter heating season and in more detailed analyses correlating demand, heating-degree-days, and prior inventory levels. Such correlations will help EIA to understand the impact of storage operations on natural gas supply and demand.

II. Current Actions

EIA will be requesting a three-year extension of the collection authority for each of the above-referenced surveys. In addition, EIA proposes the changes outlined below that affect the EIA–176, EIA–191, EIA–857, and EIA–895. The request for extension of collection authority will include two surveys, Forms EIA–910 and EIA–912 cited above, which received approvals for implementation in separate clearance requests to OMB.

Form EIA–176, ''Annual Report of Natural and Supplemental Gas Supply and Disposition''

EIA is proposing significant revisions to the Form EIA–176. Those revisions included elimination of the ''Company Activities'' and ''Continuations'' sections of the Form. Numerous line items have been eliminated or combined to simplify reporting requirements and reduce respondent burden. One new reporting item has been added. The line item will collect volume of liquefied natural gas (LNG) in inventory as of December 31 of the report year. The Form has also been extensively reformatted and the instructions have been simplified and reviewed for increased clarity.

Form EIA–191, ''Monthly Underground Gas Storage Report''

The Form EIA–191 has been reformatted and several data elements have been eliminated in order to reduce respondent burden. The instructions have been reviewed and edited to provide greater clarity and simplicity.

Form EIA–857, ''Monthly Report of Natural Gas Purchases and Deliveries to Consumers''

No significant changes are proposed for the Form EIA–857, although EIA did add items on total gas deliveries for reporting in 2002, and is interested in receiving comments about that revision. The instructions have been redrafted to provide simplicity and clarity.

Form EIA–895, ''Monthly Quantity and Value of Natural Gas Production Report''

EIA is adding the word ''Production'' to the survey title for clarity. The proposed Form EIA–895 will include an additional category for reporting monthly production of natural gas from coalbed wells.

Form EIA–910, ''Monthly Natural Gas Marketer Survey''

EIA is requesting extended clearance of the currently approved EIA–910 in order to align the expiration dates for all forms in the Natural Gas Data Collection Program Package. No changes are proposed for either the survey form or instructions. EIA is requesting comments on whether the sample population (currently five States) covered by the EIA–910 should be expanded.

Form EIA–912, ''Weekly Underground Natural Gas Storage Report''

The EIA–912 was recently approved to operate for six months under an emergency clearance under section

3507(j)(1) of the Paperwork Reduction Act of 1995. EIA will request further clearance to conduct the survey until the end of 2002. In this collection request, EIA will ask for approval to conduct the survey for three years beginning January 2003. The emergency clearances and continued approval are intended to continue the weekly data series (produced by the American Gas Association until May 2002) without interruption. Including the EIA–912 in the Fall 2002 clearance proposal will keep all Forms in the Natural Gas Data Collection Program Package on the same schedule. EIA is also requesting comments on the timing of dissemination of the information collected on Form EIA–912. Copies of the draft forms and instructions are available on the EIA Web site *http://www.eia.doe.gov/oil__gas/fwd/proposed.html.*

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments. Please indicate to which form(s) your comments apply.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

B. Can the information be submitted by the due date?

C. Public reporting burden for the surveys included in the Natural Gas Data Collection Program Package is shown below as an average hour(s) per response. The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate is this estimate for the proposed forms?

(1) Form EIA–176, ''Annual Report of Natural and Supplemental Gas Supply and Disposition''; 12 hours per response.

(2) Form EIA–191, ''Monthly Underground Gas Storage Report''; 3.6 hours per response.

(3) Form EIA–857, ''Monthly Report of Natural Gas Purchases and Deliveries to Consumers''; 3.5 hours per response.

(4) Form EIA–895, ''Monthly Quantity and Value of Natural Gas Production Report''; .5 hour per response.

(5) Form EIA–910, ''Monthly Natural Gas Marketer Survey''; 2 hours per response.

(6) Form EIA–912, ''Weekly Underground Natural Gas Storage Report''; .5 hour per response.

D. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

E. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

F. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information to be Collected

A. Is the information useful at the levels of detail to be collected?

B. For what purpose(s) would the information be used? Be specific.

C. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Authority: Sec. 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, February 19, 2002.

Jay Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–4392 Filed 2–22–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–86–000, et al.]

LG&E Trust No. 2001–A, et al.; Electric Rate and Corporate Regulation Filings

February 14, 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. LG&E Trust No. 2001–A

[Docket No. EG02–86–000]

Take notice that on February 5, 2002, LG&E Trust No. 2001–A (Applicant) 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.

Pursuant to a synthetic lease arrangement, Applicant states that it holds legal title to two 152 MW (summer rating) combustion turbine electric generating units in Trimble County, Kentucky. LG&E Capital Trimble County LLC is the beneficial owner of (and will operate) the units upon their completion, which is expected in March 2002. All capacity and energy from the plant will be sold exclusively at wholesale.

Comment Date: March 7, 2002.

2. Covanta Energy India (Samalpatti) Limited

[Docket No. EG02–87–000]

Take notice that on February 5, 2002, Covanta Energy India (Samalpatti) Limited (Covanta Samalpatti) 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.

Covanta Samalpatti states that it indirectly owns an interest in a 106 MW heavy oil driven facility (Facility) in the State of Tamil Nadu, India. The energy produced by the Facility is sold at wholesale under a long-term power purchase agreement to the Tamil Nadu Electricity Board, a state-owned entity, whose performance under that agreement is guaranteed by the Government of the State of Tamil Nadu (a political subdivision of the country of India). Covanta Samalpatti does not anticipate that retail sales will be made from the Facility.

Comment Date: March 7, 2002.

3. Covanta Energy India (Madurai) Limited

[Docket No. EG02–88–000]

Take notice that on February 5, 2002, Covanta Energy India (Madurai) Limited (Covanta Madurai) 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.

Covanta Madurai states that it indirectly owns an interest in a 105 MW heavy oil driven facility (Facility) located in the State of Tamil Nadu, India. The energy produced by the Facility is sold at wholesale under a long-term power purchase agreement to the Tamil Nadu Electricity Board, a state-owned entity, whose performance under that agreement is guaranteed by the Government of the State of Tamil Nadu (a political subdivision of the country of India). Covanta Madurai does not anticipate that retail sales will be made from the Facility.

Comment Date: March 7, 2002.

4. West Generating Company, LLC

[Docket No. EG02–89–000]

Take notice that on February 8, 2002, West Generating Company, LLC, 410 South Wilmington Street, Raleigh, NC 27602, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations. The applicant is a limited liability company that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant proposes to own and operate a gas-fired combustion turbine to be located in the Southeastern United States. The applicant seeks a determination of its exempt wholesale generator status. All electric energy sold by the applicant will be sold exclusively at wholesale.

Comment Date: March 7, 2002.

4a. Tenaska Virginia Partners, L.P.

[Docket No. EG02–90–000]

Take notice that on February 12, 2002, Tenaska Virginia Partners, L.P., 1044 North 115th Street, Suite 400, Omaha, Nebraska 68154 (Tenaska Virginia), 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.

Tenaska Virginia, a Delaware limited partnership, states that it will construct, own, and operate a natural gas fired combined-cycle fuel conversion facility (the Facility) to be constructed and located near Palmyra, Virginia, in Fluvanna County. The Facility will consist of three ''F'' Class combustion turbine-generators and one steam turbine-generator, and will use natural gas as the primary fuel and may use fuel oil as backup fuel for the combustion turbines. The Facility will also include natural gas receipt facilities and a switchyard, and may include fuel oil storage facilities and fuel oil unloading facilities. The nominal net electric output of the facility will be 885 MW when operating at summer conditions. The Facility will include related transmission interconnection components necessary to interconnect the Facility with Virginia Electric and Power Company. The Facility will be used exclusively for the generation of electric energy to be delivered to an unaffiliated third-party customer.

Comment Date: March 7, 2002.

5. New York Independent System Operator, Inc.

[Docket No. ER01–2536–003]

Take notice that on February 11, 2002, New York Independent System Operator, Inc. (NYISO) submitted rates for mitigated in-city generators for the 24-month period of September 1999 to August 2001 and for the 36-month period of September 1998 to August 2001. Our January 18, 2002 letter explained that the rates provided reflected the fact that the NYISO did not have data available for all mitigated in-city generators for the period September 1999 to December 1999.

Comment Date: March 4, 2002.

6. Bluegrass Generation Company, L.L.C., Cabrillo Power I LLC, Cabrillo Power II LLC, Calcasieu Power, LLC, Dynegy Danskammer, L.L.C., Dynegy Midwest Generation, Inc., Dynegy Power Marketing, Inc., Dynegy Power Services, Inc., Dynegy Roseton, L.L.C., El Segundo Power, L.L.C., Foothills Generating, L.L.C., Heard County Power, L.L.C., Illinova Energy Partners, Inc., Long Beach Generation LLC, Nicor Energy, L.L.C., Renaissance Power, L.L.C., Riverside Generating Company, L.L.C., Rockingham Power, L.L.C., Rocky Road Power, L.L.C., Rolling Hills Generating, L.L.C.

[Docket Nos. ER02–506–002, ER99–1115–005, ER99–1116–005, ER00–1049–003, ER01–140–002, ER00–1895–002, ER99–4160–003, ER94–1612–026, ER01–141–002, ER98–1127–005, ER02–554–001, ER01–943–002, ER94–1475–021, ER98–1796–004, ER01–1169–002, ER01–3109–002, ER01–1044–002, ER99–1567–002, ER99–2157–002, ER02–553–001]

Take notice that on February 8, 2002, the subsidiaries of Dynegy Inc. that have been granted blanket market-based rate authority to sell energy and capacity pursuant to Section 205 of the Federal Power Act submitted an updated market power study.

Comment Date: March 1, 2002.

7. Virginia Electric and Power Company

[Docket No. ER02–511–001]

Take notice that on February 11, 2002, Virginia Electric and Power Company, doing business as Dominion Virginia Power, tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Generator Interconnection and Operating Agreement (Interconnection Agreement) with Southeastern Public Service Authority of Virginia (SPSA) that complies with the Commission's January 30, 2002 Order in this docket.

Dominion Virginia Power respectfully requests that the Commission accept this filing to make the Interconnection Agreement effective as of December 11, 2001, the same date the Commission originally made the Interconnection Agreement effective in its January 30 Order. Copies of the filing were served upon SPSA and the Virginia State Corporation Commission.

Comment Date: March 4, 2002.

8. Entergy Services, Inc.

[Docket No. ER02–324–002]

Take notice that on February 11, 2002, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing with the Federal Energy Regulatory Commission (Commission), a compliance Interconnection and

Operating Agreement with Amelia Energy Center, LP, in response to the Commission's January 11, 2002, order in Entergy Gulf States, Inc., 98 FERC ¶ 61,014 (2002).

Comment Date: March 4, 2002.

9. The Montana Power Company

[Docket No. ER02–321–000]

Take notice that on February 11, 2002, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission in compliance with the letter order dated January 11, 2002 in Docket No. ER02–321–000, Montana Power Company Rate Schedule FERC No. 175 paginated and designated as required by Order No. 614.

A copy of the filing was served upon Bonneville Power Administration.

Comment Date: March 4, 2002.

10. Reliant Energy Desert Basin, LLC

[Docket No. ER02–310–001]

Take notice that on February 11, 2002, pursuant to the letter order issued in the captioned docket on January 11, 2002, Reliant Energy Desert Basin, LLC (RE Desert Basin) submitted to the Federal Energy Regulatory Commission a revised filing of an umbrella service agreement under RE Desert Basin's FERC Electric Tariff, Original Volume No. 1, with the service agreement properly designated as required by Order No. 614.

Comment Date: March 4, 2002.

11. PJM Interconnection, L.L.C.

[Docket No. ER01–1115–002]

Take notice that on February 8, 2002, PJM Interconnection, L.L.C. (PJM) submitted a withdrawal of its Notice of Cancellation and Amended Notice of Cancellation filed in this docket on January 30, 2001 and March 5, 2001, respectively, to cancel the Interconnection Agreement between the PJM Group and the NYPP Group, designated as PJM Group Rate Schedule FERC No. 5 and NYPP Group Rate Schedule FERC No. 3 (Interconnection Agreement). PJM is not withdrawing the Unscheduled Transmission Services Agreement between PJM and the New York Independent System Operator, Inc. filed in this docket and reiterates its request for a January 1, 2001 effective date.

Copies of the filing have been served on all parties on the official service list in Docket Number ER01–1115–000.

Comment Date: March 1, 2002.

12. RockGen Energy, LLC

[Docket No. ER99–970–002]

Take notice that on February 11, 2002, RockGen Energy, LLC submitted for filing its triennial market analysis update in compliance with the Commission order issued in this docket on February 11, 1999.

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. 02–4347 Filed 2–22–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–998–000, et al.]

MidAmerican Energy Company, et al.; Electric Rate and Corporate Regulation Filings

February 15, 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. MidAmerican Energy Company

[Docket No. ER02–998–000]

Take notice that on February 11, 2002, MidAmerican Energy Company (MidAmerican) filed with the Federal Energy Regulatory Commission (Commission) a Notice of Cancellation pursuant to Section 35.15 of the Commission's regulations. MidAmerican requests that the following rate schedule be cancelled effective as of January 31, 2002.

MidAmerican a copy of this filing has been sent to the City of Livermore, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment Date: March 4, 2002.

2. Mint Farm Generation, LLC

[Docket No. EG02–91–000]

Take notice that on February 12, 2002, Mint Farm Generation, LLC (Mint Farm Generation) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Mint Farm Generation proposes to own a 298 MW generating facility located in the city of Longview, Washington (Facility). The proposed Facility is expected to commence commercial operation in June, 2003. All output from the Facility will be sold by Mint Farm exclusively at wholesale.

Comment Date: March 8, 2002.

3. PacifiCorp Power Marketing, Inc., PacifiCorp

[Docket Nos. ER95–1096–022, ER97–2801–003]

Take notice that on February 12, 2002, PacifiCorp Power Marketing, Inc. and PacifiCorp tendered for filing an updated generation market power study in support of sales of electric energy at market based prices.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: March 5, 2002.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–107–001]

Take notice that on February 12, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, in compliance with the Order of the Federal Energy Regulatory Commission (Commission) in Midwest Independent Transmission System Operator Inc., 97 FERC ¶ 61,270 (2001) and pursuant to Section 205 of the Federal Power Act (FPA), 16 USC 824d (2000) and Section 385.205 of the Commission's regulations, 18 CFR 385.205 (2001), proposed revisions to the Midwest ISO Agreement of the Transmission Facilities Owners To Organize The Midwest Independent Transmission System Operator, Inc. (Midwest ISO Agreement), First Revised Rate Schedule FERC No. 1.

Pursuant to the Commission's regulations, 18 CFR 385.2010 (2001), the Midwest ISO has served this filing on all parties on the official service list in this proceeding. In addition, the Midwest ISO has electronically served a copy of this 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. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: March 5, 2002.

5. GNE, LLC

[Docket No. ER02–159–003]

Take notice that on February 12, 2002, GNE, LLC (GNE) tendered for filing with the Federal Energy Regulatory Commission (Commission) a revised tariff sheets with respect to the Commission's Order issued December 19, 2001 herein granting its application for authorization to sell and to broker electric power at market based rates, and the Commission's Order issued January 30, 2002, herein directing GNE to resubmit revised tariff sheets.

Comment Date: March 5, 2002.

6. Armstrong Energy Limited Partnership, LLLP, Troy Energy, LLC

[Docket Nos. ER02–300–003, ER02–301–003]

Take notice that on February 12, 2002, Armstrong Energy Limited Partnership, LLLP (Armstrong) and Troy Energy, LLC (Troy), have modified their January 18, 2002 deficiency correction by modifying the price cap and treating the rate authorizations as independent rate schedules.

Copies of the filing were served upon Ohio Public Utilities Commission, the Pennsylvania Public Service Commission, the North Carolina Utilities Commission, and the Virginia State Corporation Commission.

Comment Date: March 5, 2002.

7. Duke Energy Enterprise, LLC

[Docket No. ER02–565–001]

Take notice that on February 12, 2002, Duke Energy Enterprise, LLC filed a notice of status change with the Federal Energy Regulatory Commission in connection with the pending change in upstream control of Engage Energy America LLC and Frederickson Power L.P. resulting from a transaction involving Duke Energy Corporation and Westcoast Energy Inc.

Copies of the filing were served upon all parties on the official service lists compiled by the Secretary of the Federal Energy Regulatory Commission in these proceedings.

Comment Date: March 5, 2002.

8. Southern California Edison Company

[Docket No. ER02–925–001]

Take notice that on February 13, 2002, Southern California Edison Company (SCE) tendered for filing several corrections to the revisions to its Transmission Owner Tariff (TO Tariff), FERC Electric Tariff, Substitute First Revised Original Volume No. 6, SCE requested in a filing on January 31, 2002 in Docket No. ER02–925–000. The revisions result in a proposed increase in revenues from TO Tariff transmission customers by $63.6 million based on the 12-month period ending December 31, 2002.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the California Independent System Operator Corporation (ISO), the California Electricity Oversight Board, and all ISO-certified Scheduling Coordinators.

Comment Date: March 5, 2002.

9. Unitil Power Corp.

[Docket No. ER02–999–000]

Take notice that on February 11, 2002, Unitil Power Corp. (Unitil Power) tendered for filing with the Federal Energy Regulatory Commission (Commission) a market-based rate tariff, including a form of umbrella service agreement. The proposed market-based rate tariff does not replace Unitil Power's existing market-based rate tariff, FERC Electric Tariff, Volume No. 3, and service provided thereunder will not be affected. Unitil Power requests waiver of the Commission's notice of filing requirements to allow the proposed market-based rate tariff to become effective on March 13, 2002.

A copy of the filing was served upon the New Hampshire Public Utilities Commission.

Comment Date: March 4, 2002.

10. TECO-PANDA Generating Company, L.P.

[Docket No. ER02–1000–000]

Take notice that on February 11, 2002, TECO–PANDA Generating Company, L.P. tendered for filing an application for authorization to sell energy, capacity and ancillary services at market-based rates pursuant to section 205 of the Federal Power Act. A copy of this filing has been served on the Florida Public Service Commission.

Comment Date: March 4, 2002.

11. Michigan Electric Transmission Company LLC

[Docket No. ES02–24–000]

Take notice that on February 13, 2002, Trans-Elect, Inc., on behalf of Michigan Electric Transmission Company LLC (Michigan Electric) submitted an application seeking authorization for Michigan Electric to issue and sell no more than $235 million of secured securities in the form of notes and loan obligations under a credit agreement with banks and other lenders as more fully described in the application.

Comment Date: March 1, 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. 02–4348 Filed 2–22–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7149–1]

Proposed Settlement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree which was lodged with the United States District Court for the Northern District of California by the United States Environmental Protection Agency (''EPA'') on January 15, 2002 to address a lawsuit filed by the Medical Alliance for Healthy Air, Sierra Club, Latino Issues Forum and Center on Race, Poverty and the Environment, a project of the California Rural Legal Assistance Foundation. This lawsuit, which was filed pursuant to section 304(a) of the Act, 42 U.S.C. 7604(a), addresses EPA's alleged failure to meet mandatory deadlines under section 110(k) of the Act, 42 U.S.C. 7410(k), to take final actions to approve or disapprove the 1997 PM–10 Attainment Demonstration Plan for the San Joaquin Valley (''SJV'') in California and six individual rules for the control of PM–10 and nitrogen oxide (NO_X) in the SJV. *Medical Alliance for Healthy Air et al.* v. *EPA,* Case No. C–01–4086 JCS (N.D. Cal.).

DATES: Written comments on the proposed consent decree must be received by March 27, 2002.

ADDRESSES: Written comments should be sent to Jan Taradash, Office of Regional Counsel, U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the proposed consent decree are available from Jan Taber, (415) 972–3900.

SUPPLEMENTARY INFORMATION: The Clean Air Act requires EPA to take action to approve or disapprove a State implementation plan revision within 12 months of a determination by the Administrator that such revision is complete. See section 110(k)(1)–(4), 42 U.S.C. 7410(k)(1)–(4). In 1997, the California Air Resources Board (''CARB'') submitted to EPA the PM–10 Attainment Demonstration Plan (''1997 Plan'') for the SJV as a proposed revision to the California State Implementation Plan (''SIP''). This SIP revision was deemed complete by operation of law in 1998 pursuant to section 110(k)(1)(B), 42 U.S.C. 7410(k)(1)(B). The proposed consent decree provides that the Administrator or her delegatee shall sign no later than March 1, 2002, a notice for publication in the **Federal Register** proposing action on the 1997 Plan and shall sign no later than August 16, 2002 a notice for publication in the **Federal Register** taking final action pursuant to section 110(k) of the Act, 42 U.S.C. 7410(k).

From 1993 through 1998, CARB also submitted six rules adopted by the San Joaquin Valley Unified Control District for the control of PM–10 and NO_X in the SJV and EPA found them to be complete pursuant to section 110(k)(1)(B), 42 U.S.C. 7410(k)(1)(B) as follows: Rules 4201 (1992), 4901 (1994), 4351 (1996), 4305 (1997), 4701 (1998) and 4703 (1998). EPA has proposed action on these rules pursuant to section 110(k) of the Act, 42 U.S.C. 7410(k). The proposed consent decree provides that the Administrator or her delegatee shall sign no later than January 15, 2002, a notice or notices for publication in the **Federal Register** taking final action on Rules 4901, 4351, 4305, 4701 and 4703 and shall sign such a notice taking final action on Rule 4201 no later than April 7, 2002. The Administrator signed notices by January 15, 2002, taking final action on Rules 4901, 4351, 4305, 4701 and 4703.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed consent decree from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed consent decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final consent decree will then be executed by the parties.

Dated: February 15, 2002.

Alan W. Eckert,

Associate General Counsel, Air and Radiation Law Office.

[FR Doc. 02–4404 Filed 2–22–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL TRADE COMMISSION

[Docket No. 9297]

American Home Products Corp.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint previously issued and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 15, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: David Pender, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2549.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and §3.25(f) of the Commission's rules of practice, 16 CFR 3.25(f), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 19, 2002), on the World Wide Web, at ''*http://www.ftc.gov/os/2002/02/index.htm.*'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with §4.9(b)(6)(ii)

of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis To Aid Public Comment

The Federal Trade Commission has accepted for public comment an agreement and proposed consent order with American Home Products Corporation. The proposed consent order would settle charges that AHP unlawfully agreed with Schering-Plough Corporation to delay selling its generic version of Schering's K-Dur 20, in exchange for payments from Schering. The proposed consent order has been placed on the public record for 30 days to receive comments by interested persons. The proposed consent order has been entered into for settlement purposes only and does not constitute an admission by AHP that it violated the law or that the facts alleged in the complaint, other than the jurisdictional facts, are true. In July 2001, AHP advised its customers that it intends to phase out its oral generic drug product line.

Background

Schering develops and markets brand name and generic drugs, as well as over-the-counter health care and animal care products. Schering manufactures and markets an extended-release micro-encapsulated potassium chloride product, K-Dur 20. K-Dur 20, marketed as a brand name drug, has sales over $200 million per year. K-Dur 20 is used to treat patients who suffer from insufficient levels of potassium, a condition that can lead to serious cardiac problems.

AHP develops and markets brand name and generic drugs, as well as over-the-counter medications. ESI Lederle, Incorporated, a division of AHP, received tentative approval from the Food and Drug Administration in May 1999 for a generic version of Schering's K-Dur 20.

Upsher-Smith Laboratories, Inc. develops and markets brand name and generic drugs. Upsher-Smith received final approval from the Food and Drug Administration in November 1998 for a generic version of Schering's K-Dur 20.

Generic drugs are chemically identical to their branded counterparts, but typically are sold at substantial discounts from the branded price. A Congressional Budget Office Report estimates that purchasers saved an estimated $8–10 billion on prescriptions at retail pharmacies in 1994 by purchasing generic drugs instead of the brand name product. [1]

The Drug Price Competition and Patent Term Restoration Act of 1984, commonly referred to as ''the Hatch-Waxman Act,'' establishes certain rights and procedures in situations where a company, such as AHP or Upsher, seeks FDA approval to market a generic product prior to the expiration of a patent or patents relating to a brand name drug upon which the generic is based. In such cases, the applicant must: (1) Certify to the FDA that the patent in question is invalid or is not infringed by the generic product (known as a ''paragraph IV certification''); and (2) notify the patent holder of the filing of the certification. If the holder of patent rights files a patent infringement suit within 45 days of the notification, FDA approval to market the generic drug is automatically stayed for 30 months, unless before that time the patent expires or is judicially determined to be invalid or not infringed. This automatic 30-month stay allows the patent holder time to seek judicial protection of its patent rights before a generic competitor is permitted to market its product.

In addition, the Hatch-Waxman Act provides an incentive for generic drug companies to bear the cost of patent litigation that may arise when they challenge invalid patents or design around valid ones. The Act, as currently interpreted, grants the first company to file an ANDA in such cases a 180-day period during which it has the exclusive right to market a generic version of the brand name drug. No other generic manufacturer may obtain FDA approval to market its product until the first filer's 180-day exclusivity period has expired.

Upsher-Smith was the first company to file an ANDA for a generic version of Schering's K-Dur 20. Upsher-Smith filed a paragraph IV certification with the FDA, stating that its product did not infringe any valid patent held by Schering covering K-Dur 20. In 1995, Schering sued Upsher-Smith for patent infringement. The complaint alleges that at all times relevant herein, FDA final approval of an ANDA for a generic version of K-Dur 20 for anyone other than Upsher-Smith was blocked. Pursuant to the Hatch-Waxman Act, Upsher-Smith was eligible for the right to a 180-day Exclusivity Period for the sale of a generic version of K-Dur 20. The complaint further alleges that as a result, no company could obtain final FDA approval of an ANDA to market or sell a generic version of K-Dur 20 until 180 days after Upsher-Smith first sold its product, or until Upsher-Smith's exclusivity right is relinquished, forfeited or otherwise expired.

ESI was the second company to file an ANDA for K-Dur 20. ESI also filed a paragraph IV certification with the FDA stating that its product did not infringe any valid patent held by Schering covering K-Dur 20. In 1996, Schering sued ESI for patent infringement.

The Challenged Agreements

The complaint challenges unlawful agreements between Schering and Upsher-Smith and among Schering, AHP and ESI to delay the entry of low-cost generic competition to Schering's highly profitable prescription drug K-Dur 20. According to the complaint, when confronted with the prospect of competition to K-Dur 20 through generic entry by Upsher-Smith and ESI, Schering entered into these agreements that kept Upsher, ESI and all other potential generic competitors out of the market. The complaint alleges that the Upsher-Smith/Schering agreement delayed the start of Upsher-Smith's 180-day Exclusivity Period until September 2001 and, as a result, the entry of competition from other generic manufacturers until March 2002.

With respect to AHP and ESI, the complaint alleges that in January 1998, Schering, AHP, and ESI reached an agreement to settle their patent litigation. Pursuant to that agreement: Schering agreed to pay ESI up to $30 million; AHP and ESI agreed to refrain from marketing the allegedly infringing generic version of K-Dur 20 or any other generic version of K-Dur 20, regardless of whether such product would infringe Schering's patents, until January 2004; AHP and ESI agreed to refrain from marketing more than one generic version of K-Dur 20 between January 2004 and September 2006, when the K-Dur 20 patent will expire; and AHP and ESI agreed not to conduct, sponsor, file or support a study of the bio-equivalence of any product to K-Dur 20 prior to September 2006. Schering agreed to pay ESI $5 million up front; an additional $10 million if ESI could demonstrate that its generic version of K-Dur 20 was able to be approved by the FDA under an ANDA on or before June 30, 1999; and another $15 million for licenses to two generic products that ESI was developing.

The complaint further alleges that the patent litigation between Schering and ESI was dismissed. Schering has paid ESI over $20 million and continues to make payments under the terms of their agreement. Schering has made no sales to date of the two products it licensed from ESI.

[1] Congressional Budget Office, How Increased Competition from Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry at xiii, 13 (July 1998).

Competitive Analysis

Generic drugs can have a swift marketplace impact, because pharmacists generally are permitted, and in some instances are required, to substitute lower-priced generic drugs for their branded counterparts, unless the prescribing physician directs otherwise. In addition, there is a ready market for generic products because certain third-party payers of prescription drugs (e.g., state Medicaid programs and many private health plans) encourage or insist on the use of generic drugs wherever possible.

The complaint charges that the challenged agreement among Schering, AHP and ESI injured competition by preventing or discouraging the entry of generic K-Dur 20. The complaint also alleges that by making cash payments to ESI, Schering induced it to agree to delay launching its generic version of K-Dur 20. According to the complaint, absent those payments, ESI would not have agreed to delay its entry for so long. The complaint charges that by making cash payments to ESI, Schering protected itself from competition from ESI until 2004. The complaint also alleges that without lower-priced generic competition from Upsher-Smith and ESI, consumers, pharmacies, hospitals, insurers, wholesalers, government agencies, managed care organizations, and others are forced to purchase Schering's more expensive K-Dur 20 product.

The Proposed Order

The proposed order is designed to remedy the unlawful conduct charged against AHP in the complaint and prevent recurrence of such conduct. As described more fully below, the proposed order would essentially prohibit two categories of conduct:

- Agreements in which the NDA holder makes payments to an ANDA filer and the ANDA filer agrees not to market its product for some period of time (except in certain limited circumstances) (Paragraph II deals with agreements that resolve a patent infringement dispute and Paragraph IV covers ''interim'' agreements that apply during the pendency of ongoing patent litigation); and
- Agreements between the NDA holder and an ANDA filer in which the generic competitor agrees not to enter the market with a non-infringing generic product (Paragraph III).

The proposed order would apply to AHP whether it is acting as potential generic competitor (an ANDA filer) or as a branded drug seller (an NDA holder). As noted above, AHP has advised its customers that it intends to phase out its oral generic pharmaceutical product line. It will continue to develop, manufacture, and market brand name drugs and injectable generic drugs. Notwithstanding AHP's plans to phase out its oral generic products—the line of business that includes its generic version of K–Dur 20—an order is appropriate here to prevent a recurrent violation.

Paragraph II of the order covers agreements to resolve patent infringement disputes. It bars agreements wherein (1) The NDA holder makes payments or otherwise transfers something of value to the ANDA filer and (2) the ANDA filer agrees not to market its product for some period of time, except under certain limited circumstances described below. The ban in Paragraph II includes not only settlements of ongoing patent infringement litigation, but also agreements resolving claims of patent infringement that have not resulted in a lawsuit (see Paragraph I.O.). In addition, by virtue of the definition of ''Agreement'' in Paragraph I.D., the order makes it clear that the prohibition on payments for delayed generic entry would cover such arrangements even if they are achieved through separate agreements (for example, where one agreement resolves the patent infringement dispute and another provides for the payment for delayed entry).

The order prohibits not merely cash payments to induce delayed entry, but, more broadly, agreements in which the NDA holder provides something of value to the potential generic entrant, and the ANDA filer agrees in some fashion not to sell its product. Although all of the pharmaceutical agreements that the Commission has challenged to date have involved cash payments, a company could easily evade a prohibition on such agreements by substituting other things of value for cash payments. Thus, to protect against a recurrent violation, the order is not limited to cash payments.

The proposed order distinguishes between the first ANDA filer (the party eligible for the 180-day market exclusivity period under the Hatch-Waxman Act) and later filers. It bars giving ''anything of value'' to the first ANDA filer, but would permit NDA holders to grant other ANDA filers a delayed license to manufacture the ANDA product. The proposed order makes this distinction because an agreement by a later filer to refrain from entering does not block entry by other potential competitors. Where the only value granted by the NDA holder is the license to sell the ANDA product, there is no payment to distort the generic's incentive to seek the earliest possible entry date. In the case of the first ANDA filer, however, any agreement with an NDA holder that involves a promise by the generic firm not to enter the market risks blocking entry by other potential generic competitors, and therefore such agreements are subject to the general prohibition of Paragraph II of the proposed order.

As noted above, the proposed order would create a limited exception to Paragraph II's ban on giving value for delayed entry. This exception addresses the possibility that there might be some agreements that fall within the terms of the prohibition in Paragraph II that the Commission would not wish to prohibit. For example, as was previously discussed, the proposed order would ban not only agreements involving cash payments of the type that the Commission has challenged to date, but also the giving of other things of value. It is possible, however, that the giving of some non-cash items in a settlement that did not provide for immediate entry by the ANDA filer could promote competition. Thus, the order includes a mechanism that would permit consideration of such arrangements.

The exception that has been crafted in this matter could arise only in situations where Respondent AHP presents the agreement to a court in connection with a joint stipulation for a permanent injunction. In that circumstance, Paragraph II will not bar an otherwise prohibited agreement, if the following conditions are met:

- First, Respondent must follow certain procedures designed to provide notice and information both to the Commission and the court: (1) Along with the joint stipulation for permanent injunction and the proposed agreement, Respondent must provide the court with a copy of the Commission's complaint, order, and the Analysis to Aid Public Comment in this matter; (2) at least 30 days before submitting the stipulation to the court, Respondent must provide written notice (as set forth in Paragraph V of the order) to the Commission; and (3) Respondent may not oppose Commission participation in the court's consideration of the request for permanent injunction; and
- Second, either: (1) The court issues a permanent injunction and the parties' agreement conforms to the court's permanent injunction order; or (2) the Commission determines that the agreement does not raise issues under section 5 of the FTC Act.

The proviso to Paragraph II also makes it clear that the order would not

prevent Respondent AHP from unilaterally seeking relief from the court. The proviso sets forth conditions under which AHP could seek to avoid, though court action, the bar on agreements that is set forth in the core prohibition of Paragraph II of the proposed order. These conditions would not affect AHP's ability to take action that did not involve an agreement otherwise prohibited in Paragraph II.

The Commission recognizes that, outside of the class action context, final settlements between private litigants ordinarily are not scrutinized by courts. Unlike the case of a court-ordered preliminary injunction based on a stipulation of the parties (the situation addressed in Paragraph IV, discussed below), the court in the final settlement context has no express legal mandate to consider the public interest. Thus, there remains some degree of risk that an anticompetitive agreement could escape the prohibition of Paragraph II if the parties were able to persuade a court to issue their agreement as a permanent injunction. On the other hand, it is also relatively rare for courts in ordinary private litigation to issue settlement agreements as permanent injunction orders. This is likely to reduce the risk that an anticompetitive agreement would evade the order, because, as noted above, the exception to the prohibitions of Paragraph II does not arise unless the court issues a permanent injunction order. On balance, in light of all the circumstances of this proposed consent order (including that it is the first involving a challenge to a final settlement with a second ANDA filer), the Commission believes that the exception contained in Paragraph II is appropriate here.

Paragraph III prohibits agreements between an NDA holder and an ANDA filer in which the ANDA filer agrees not to develop or market a generic drug product that is not the subject of a claim of patent infringement. The Commission has previously considered this type of restraint in the context of an agreement between an NDA holder and an ANDA first filer (that is, the party possessing an unexpired right to Hatch-Waxman 180-day exclusivity), and had limited the bans in previous orders to that context. Having now considered a similar restraint in an agreement involving a later ANDA filer, the Commission believes it is appropriate to extend this prohibition to agreements between an NDA holder and any ANDA filer.

Paragraph IV addresses what are sometimes referred to as interim settlement agreements. It covers agreements that involve payment to an ANDA filer and in which the ANDA filer agrees not to enter the market for a period of time, but the patent infringement litigation continues. AHP would be barred from entering into such interim agreements. As in Paragraph II, it extends beyond cash payments to cover the NDA holder's providing ''anything of value'' to the ANDA filer, and provides an exception in limited circumstances, similar to those described in connection with Paragraph II of the proposed order. Although the challenged conduct here was an agreement in connection with a final settlement of litigation, rather than an interim agreement, this provision is appropriate in light of the serious antitrust concerns raised by interim agreements and the need to impose an order to prevent recurrence of violations similar to that with which AHP is charged.

The form of notice that Respondent AHP must provide to the Commission under Paragraphs II and IV of the order is set forth in Paragraph V. In addition to supplying a copy of the proposed agreement, AHP is required to provide certain other information to assist the Commission in assessing the potential competitive impact of the agreement. Accordingly, the order requires Respondent to identify, among other things, all others known by AHP to have filed an ANDA for a product containing the same chemical entities as the product at issue, as well as the court that is hearing any relevant legal proceedings involving Respondent. In addition, Respondent AHP must provide the Commission with certain documents that evaluate the proposed agreement.

The proposed order also contains certain reporting and other provisions that are designed to assist the Commission in monitoring compliance with the order and are standard provisions in Commission orders.

The proposed order would expire in 10 years.

Opportunity for Public Comment

The proposed order has been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the agreement. The analysis is not intended to constitute an official interpretation of the agreement, the complaint, or the proposed consent order, or to modify their terms in any way.

By direction of the Commission, Chairman Muris not participating.

Donald S. Clark,

Secretary.

[FR Doc. 02–4374 Filed 2–22–02; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 992 3034]

TechnoBrands, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 30, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW,. Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: James Dolan or Heather Hippsley, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3292 or 326–3285.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 19, 2002), on the World Wide Web, at *http://*

www.ftc.gov/os/2002/02/index.htm. A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondents TechnoBrands, Inc., and Charles J. Anton, individually and as president of the corporate respondent.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns practices related to the advertising, offering for sale, sale, and distribution of various products to the public, including the Hollywood 48–Hour Miracle Diet, a liquid diet; the Enforma System, a diet product combination consisting primarily of chitosan and pyruvate; the BMI Magnetic Kit, a set of magnets with purported analgesic properties; the Nisim New Hair Biofactors System, a purported hair-growth product; the Clarion Ionic Filter Ceiling Fan, an air-cleaning device; and the Sila Ionic Air Purifier, another air-cleaning device. The Commission's complaint charges that respondents violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, by making numerous representations that were false and/or for which they lacked a reasonable basis of substantiation. These representations concerned: the weight loss that consumers can achieve with the Hollywood Diet and Enforma; the pain relief that can be achieved with the BMI Magnetic Kit; the effectiveness of Nisim in stopping hair loss and stimulating hair growth; the ability of the air cleaners to eliminate various pollutants from indoor space; the health benefits of using the Clarion Fan; the scientific evidence for the efficacy of some of these products; the comparative efficacy of some of these products; and the experiences of consumers and celebrities who purportedly have used some of these products.

Part I of the proposed order prohibits a representation that consumers who use the Hollywood Diet, or any substantially similar product, can lose 10 lbs. in 48 hours, unless respondents possess competent and reliable scientific evidence that substantiates the representation. In addition, Part I prohibits representations that celebrities, such as actors and actresses in popular television programs, have lost substantial weight by using the product, unless the respondents possess competent and reliable evidence that substantiates the representations.

Part II of the proposed order prohibits representations that by using Enforma, or any substantially similar product, consumers can achieve substantial weight loss, or avoid weight gain, without a restricted calorie diet or exercise, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part III of the proposed order prohibits representations that use of the BMI Magnetic Kit, or any substantially similar product, relieves severe pain; relieves pain more effectively than other kinds of treatment; and relieves pain by enlarging blood vessels, increasing blood flow, reducing inflammation, or suppressing the body's production of pain-causing chemicals, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part IV of the proposed order prohibits representations that Nisim, or any substantially similar product, stops hair loss in a matter of days or stimulates hair growth as effectively as prescription products, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part V of the proposed order prohibits representations that the Clarion Ceiling Fan, or any substantially similar product, eliminates dust mites and pet dander from the user's environment, or that consumers who use the product will experience relief from allergies and other respiratory problems, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part VI of the proposed order prohibits representations that the Sila Air Purifier, or any substantially similar product, eliminates mold, mildew, bacteria, chemicals, and other pollutants from a user's environment, unless respondents possess competent and reliable scientific evidence that substantiates the representations.

Part VII of the proposed order prohibits unsubstantiated representations about the comparative or absolute benefits, performance, or efficacy of any product or service.

Part VIII of the proposed order prohibits misrepresentations about the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Part IX of the proposed order prohibits representations that any user testimonial or endorsement of a product reflects the actual experience of the user or that the user's experience is the typical experience of members of the public using the product, unless: (1) The representation is true and substantiated by competent and reliable scientific evidence; or (2) there is a disclosure of either the generally expected results for users of the product, or that consumers should not expect to experience similar results.

Part X of the proposed order requires that respondents pay to the Federal Trade Commission the sum of $200,000.

Part XI of the proposed order is a record keeping provision that requires the respondents to maintain certain records for three (3) years after the last date of dissemination of any representation covered by the order. These records include: (1) All advertisements and promotional materials containing the representation; (2) all materials relied upon in disseminating the representation; and (3) all evidence in respondents' possession or control that contradicts, qualifies, or calls into question the representation or the basis for it.

Part XII of the proposed order requires distribution of the order to current and future principals, officers, directors, and managers of the corporation.

Part XIII of the proposed order requires distribution of Attachment A to the order to current and future employees, agents, and representatives having responsibilities with respect to

the advertising and sale of products to the public. Attachment A is entitled ''Legal Notice'' and is a summary of the injunction provisions of the proposed order.

Part XIV of the proposed order requires that the Commission be notified of any change in the corporation that might affect compliance obligations under the order. Part XV of the proposed order requires that for a period of three (3) years, the individual respondent notify the Commission of the discontinuance of his current business or employment or of his affiliation with any new business or employment involving the sale of consumer products and/or services.

Part XVI of the proposed order requires the respondents to file a compliance report with the Commission.

Part XVII of the proposed order states that, absent certain circumstance, the order will terminate twenty (20) years from the date it is issued.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–4375 Filed 2–22–02; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 519A

AGENCY: Office of Communications, GSA.

ACTION: Guideline on Automating Medical Standard Forms.

Background: The Interagency Committee on Medical Records (ICMR) is aware of numerous activities using computer-generated medical forms, many of which are not mirror-like images of the genuine paper Standard/Optional Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposed to set required fields standards and that activities developing computer-generated versions adhere to the required fields but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those fields which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add or delete data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data entry elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements. This guideline controls the ''image'' or required fields but not the actual data entered into the field.

SUMMARY: With GSA's approval, the Interagency Committee of Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following fields must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR SF 519A

Item	Placement [1]
Radiologic consultation request/report.	Top of form.
Standard Form 519A (Rev. 8/1983)(Form ID).	Bottom right corner of form.
1-Medical Record	Bottom left corner of form.
2-Physician	Bottom left corner of form.
3-Radiology	Bottom left corner of form.
Data Entry Fields:	
Patient information (Text)	Above below listed items.
Last name	
First name	
Middle name	
Medical facility	
Age	
Sex	
SSN (Sponsor)	
Ward/clinic	
Register No.	
Examination requested (Use SF 519B for multiple exams)	
Requested by	
Telephone number	
Location of medical records	
Film number	
Date requested	
Pregnant—Yes (Checkbox)	
Pregnant—No (No)	

ELECTRONIC ELEMENTS FOR SF 519A—Continued

Item	Placement [1]
Specific reason(s) for Request (Complaints and findings)	
Date of examination (Month, day, year)	
Date of report (Month, day, year)	
Date of transcription (Month, day, year)	
Radiologic report	
Signature	
Location of radiologic facility	

[1] If no specific placement, data element may be in any order.

FOR FURTHER INFORMATION CONTACT: CDR Katherine Ciacco Palatianos, Indian Health Service, Department of Health and Human Services, 5600 Fishers Lane, Room 6A–55, Rockville, MD 20857 or E–Mail at *kciacco@hge.ihs.gov.*

DATES: Effective February 25, 2002.

Dated: February 12, 2002.

CDR Katherine Ciacco Palatianos,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 02–4452 Filed 2–22–02; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–02–28]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c)

ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: National Public Health Performance Standards Program Local Public Health Governance Performance Assessment Instrument—New—Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC).

Since 1998, the CDC National Public Health Performance Standards Program has convened workgroups with the National Association of County and City Health Officials (NACCHO), the Association of State and Territorial Health Officials (ASTHO), the National Association of Local Boards of Health (NALBOH), the American Public Health Association (APHA), and the Public Health Foundation (PHF) to develop performance standards for public health systems based on the ten Essential Services of Public Health. In the Spring of 2001, CDC conducted field tests with the local public health governance instruments in the state of Massachusetts.

CDC is now proposing to implement a voluntary data collection to assess the capacity of local boards of health to deliver the Essential Public Health Services. This data collection will provide a framework for local boards of health to evaluate their effectiveness. Electronic data submission will be the method of choice. If computer technology in local jurisdictions does not support electronic submission, hard copy survey instruments will be available. Local jurisdictions using hard copy survey instruments will receive assistance from State or local level field coordinators for web-based data entry.

Local boards of health will respond to the survey. An estimated 33% of approximately 3,200 United States local boards are expected to participate in the National Performance Standards Program per year.

There are no costs to respondents. The burden hours are estimated to be 30,198.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)	Total burden (in hrs.)
Local Boards of Health Year 1	1,066	1	10	10,660
Local Boards of Health Year 2	1,066	1	10	10,660
Local Boards of Health Year 3	1,066	1	10	10,660
Total				30,198

Dated: February 13, 2002.

John Moore,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–4371 Filed 2–22–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10036]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection;

Title of Information Collection: Inpatient Rehabilitation Assessment Instrument and Data Set for PPS for Inpatient Rehabilitation Facilities and Supporting Regulations in 42 CFR, Parts 412 and 413;

Form No.: CMS–10036 (OMB# 0938–0842);

Use: This is a request to use the IRF–PAI and its supporting manual for the implementation phase of the inpatient rehabilitation PPS. There have been no revisions or modifications to the instrument; however, this submission includes the current manual/instructions which has been revised. Use of this instrument will enable CMS to implement a classification system and payment system for the Legislatively mandated inpatient rehabilitation hospital and exempt units Prospective Payment System (PPS);

Frequency: On occasion;

Affected Public: Business or other for-profit, and Not-for-profit institutions;

Number of Respondents: 359,000;

Total Annual Responses: 359,000;

Total Annual Hours: 269,250.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Dawn Willinghan, CMS–10036, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 14, 2002.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–4358 Filed 2–22–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10061]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection;

Title of Information Collection: Evaluation of Programs of Coordinated Care and Disease Management;

Form No.: CMS–10061 (OMB# 0938–NEW);

Use: CMS is currently conducting two demonstration programs to determine the impact of programs of coordinated care and disease management on health outcomes and costs of care for Medicare beneficiaries. The purpose of this evaluation is to provide an independent assessment of the effectiveness of these programs, and to provide the basis for the Reports to Congress required for the care coordination demonstration. To provide this information, the evaluation must generate both rigorous quantitative estimates of the programs' impacts and qualitative analyses of the programs' processes. Surveys of demonstration participants and their health care providers are an integral part of this evaluation.;

Frequency: Other: One-time;

Affected Public: Individuals or Households, Business or other for-profit, and Not-for-profit institutions;

Number of Respondents: 11,356;

Total Annual Responses: 11,356;

Total Annual Hours: 5,465.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Dawn Willinghan, CMS–10061, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 14, 2002.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–4359 Filed 2–22–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–79]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services DHHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Payment Adjustment for Sole Community Hospitals and Supporting Regulations in 42 CFR, Section 412.92;

Form No.: CMS–R–79 (OMB# 0938–0477);

Use: Hospitals designated ''sole community hospitals'' that experience a 5 percent decrease in discharges in one cost reporting period, as compared to the previous period, due to unusual circumstances beyond its control, may request an adjustment to its Medicare payment amount;

Frequency: On Occasion;

Affected Public; Not-for-profit institutions, Business or other for-profit, and State, Local or Tribal Gov.;

Number of Respondents: 40;

Total Annual Responses: 40;

Total Annual Hours: 160.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* of e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Dawn Willinghan, CMS–R–79, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 14, 2002.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–4360 Filed 2–22–02; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Medicare and Medicaid Services

[Document Identifier: CMS–10037]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Center for Medicare and Medicaid Services DHHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Center for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Real Choice Systems Change Grants; Nursing Facility Transition/Access Housing Grants; Community Personal Assistance Service and Supports Grants, National Technical Assistance and Learning Collaborative Grants to Support Systems Change for Community Living;

Form No.: CMS–10037 (OMB# 0938–0836);

Use: Information sought by CMSO/DEHPG is needed to award competitive grants to States and other eligible entities for the purposes of designing and implementing effective and enduring improvements in consumer-directed long term service and support systems;

Frequency: Annually;

Affected Public: State, local or tribal gov.;

Number of Respondents: 76;

Total Annual Responses: 76;

Total Annual Hours: 7600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: November 13, 2001.

Julie Brown,

Acting CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–4357 Filed 2–22–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Projects

Title: Grants to states for access and visitation programs.

OMB No.: 0970–0204.

Description: States are required to provide descriptions of grant funded local and/or state access and visitation programs and data on these programs with regard to numbers of participants, referral sources, project goals, services delivered, and other relevant data.

Respondents: State access and visitation program monitors; local project administrators.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Program survey	324	1	20	6,480
Estimated total annual burden hours				6,480

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collections of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 13, 2002.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 02–4341 Filed 2–22–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0012]

Agency Information Collection Activities; Proposed Collection; Comment Request; Postmarketing Adverse Drug Experience Reporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on postmarketing adverse drug experience reporting and recordkeeping requirements.

DATES: Submit written or electronic comments on the collection of information by April 26, 2002.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Postmarketing Adverse Drug Experience Reporting—21 CFR 310.305 and 314.80 (OMB Control No. 0910–0230)—Extension

Sections 201, 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321, 352, 355, and 371) require that marketed drugs be safe and effective. In order to know whether drugs that are not safe and effective are on the market, FDA must be promptly informed of adverse experiences occasioned by the use of marketed drugs. In order to help ensure this, FDA issued regulations (§§ 310.305 and 314.80 (21 CFR 310.305 and 314.80)) to impose reporting and recordkeeping requirements on the drug industry that would enable FDA to take action necessary for protection of the public health from adverse drug experiences.

All applicants who have received marketing approval of drug products are required to report to FDA serious, unexpected adverse drug experiences, as well as followup reports when needed (§ 314.80(c)(1)). This includes reports of all foreign or domestic adverse experiences as well as those obtained in scientific literature and from postmarketing epidemiological/surveillance studies. Under § 314.80(c)(2) applicants must provide periodic reports of adverse drug experiences. A periodic report includes, for the reporting interval, reports of serious, expected adverse drug experiences and all nonserious adverse drug experiences, a narrative summary and analysis of adverse drug experiences and a history of actions taken because of adverse drug experiences. Under § 314.80(i) applicants must keep for 10 years records of all adverse drug experience reports known to the applicant.

For marketed prescription drug products without approved new drug applications or abbreviated new drug applications, manufacturers, packers, and distributors are required to report to FDA serious, unexpected adverse drug experiences as well as followup reports when needed (§ 310.305(c)). Under § 310.305(f) each manufacturer, packer, and distributor shall maintain for 10 years records of all adverse drug experiences required to be reported.

The primary purpose of FDA's adverse drug experience reporting system is to provide a signal for potentially serious safety problems with marketed drugs. Although premarket testing discloses a general safety profile of a new drug's comparatively common adverse effects, the larger and more diverse patient populations exposed to the marketed drug provides, for the first time, the opportunity to collect information on rare, latent, and long-term effects. Signals are obtained from a variety of sources, including reports from patients, treating physicians, foreign regulatory agencies, and clinical investigators. Information derived from the adverse drug experience reporting system contributes directly to increased public health protection because the information enables FDA to make important changes to the product's labeling (such as adding a new warning) and when necessary, to initiate removal of a drug from the market.

Respondents to this collection of information are manufacturers, packers, distributors, and applicants. FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
310.305(c)(5)	1	1	1	1	1
314.80(c)(1)(iii)	5	1	5	1	5
314.80(c)(2)	683	15	10,245	5	286,860
Total					286,866

[1] The reporting burden for §§310.305(c)(1), (c)(2), and (c)(3), and 314.80(c)(1)(i) and (c)(1)(ii)(c) was reported under OMB Control No. 0910–0291. There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
310.305(f)	25	1	25	1	25
314.80(i)	683	1	683	1	683
Total					708

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: February 12, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–4456 Filed 2–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81F–0387]

Abbott Laboratories; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 2B3593), filed by Abbott Laboratories, proposing that the food additive regulations be amended to provide for the safe use of cyclohexylsulfamic acid as a catalyst in resinous and polymeric coatings.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3091.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 19, 1982 (47 FR 2791), FDA announced that a food additive petition (FAP 2B3593) had been filed by Abbott Laboratories, North Chicago, IL 60064 (now 100 Abbott Park Rd., Abbott Park, IL 60064–6091). The petition proposed to amend the food additive regulations to provide for the safe use of cyclohexylsulfamic acid as a catalyst in resinous and polymeric coatings. Abbott Laboratories has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: January 29, 2002.

Leslye M. Fraser,

Acting Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 02–4381 Filed 2–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–1221]

Determination of Regulatory Review Period for Purposes of Patent Extension; Celexa

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Celexa and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

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

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5645.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may

have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Celexa (citalopram hydrobromide). Celexa is indicated for the treatment of depression. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Celexa (U.S. Patent No. 4,650,884) from H. Lundbeck A/S, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 19, 2000, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Celexa represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Celexa is 5,498 days. Of this time, 5,061 days occurred during the testing phase of the regulatory review period, while 437 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: July 30, 1983. The applicant claims August 4, 1983, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 30, 1983, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: May 7, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for Celexa (NDA 20–822) was initially submitted on May 7, 1997.

3. *The date the application was approved*: July 17, 1998. FDA has verified the applicant's claim that NDA 20–822 was approved on July 17, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may submit to the Dockets Management Branch (address above) written or electronic comments and ask for a redetermination by April 26, 2002. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 26, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 24, 2002.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 02–4382 Filed 2–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–0099]

Determination of Regulatory Review Period for Purposes of Patent Extension; Menicon Z Rigid Gas Permeable Contact Lens

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Menicon Z Rigid Gas Permeable Contact Lens and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

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

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device Menicon Z Rigid Gas Permeable Contact Lens. This product is indicated for extended wear (from 1 to 7 days between removals for cleaning and disinfection of the lenses, as recommended by the eyecare practitioner) for the correction of refractive error (myopia, hyperopia, presbyopia and/or astigmatism) in non-aphakic persons with non-diseased eyes. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Menicon Z Rigid Gas Permeable Contact Lens (U.S. Patent No. 4,594,401) from Menicon Co., and the Patent and Trademark Office requested FDA's

assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 6, 2001, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of Menicon Z Rigid Gas Permeable Contact Lens represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Menicon Z Rigid Gas Permeable Contact Lens is 1,917 days. Of this time, 1,435 days occurred during the testing phase of the regulatory review period, while 482 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun*: April 14, 1995. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) for human tests to begin became effective on April 4, 1995. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on April 14, 1995, which represents the IDE effective date.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: March 18, 1999. FDA has verified the applicant's claim that the premarket approval application (PMA) for Menicon Z Rigid Gas Permeable Contact Lens (PMA P990018) was initially submitted March 18, 1999.

3. *The date the application was approved*: July 11, 2000. FDA has verified the applicant's claim that PMA P990018 was approved on July 11, 2000.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,205 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (address above) written or electronic comments and ask for a redetermination by April 26, 2002. Furthermore, any interested person may petition FDA by for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 26, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch. Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 24, 2002.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 02–4383 Filed 2–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Antiviral Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Antiviral Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 19, 2002, from 8 a.m. to 5 p.m.

Location: Holiday Inn, The Ballrooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Tara P. Turner, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, e-mail: TurnerT@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12531. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug application (NDA) 21–245, Picovir (pleconaril), ViroPharma Inc., proposed for treatment of acute viral respiratory infection (the common cold) in adults.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 12, 2002. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 12, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Tara P. Turner at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 17, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–4455 Filed 2–22–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Childhood Vaccines Advisory Commission; Notice of Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of March.

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: March 6, 2002; 9 a.m.–3 p.m., March 7, 2002; 9 a.m.–12 p.m.

Place: The Ramada Inn, Georgetown Conference Room, 1775 Rockville Pike, Rockville, Maryland 20852, and Audio Conference Call.

The full ACCV will meet on Wednesday, March 6, from 9 a.m. to 3 p.m., and Thursday, March 7, from 9 a.m. to 12 p.m. The public can join the meeting in person at the address listed above or by audio conference call by dialing 1–888–566–5772 on March 6, and dialing 1–888–458–9977 on March 7, and providing the following information on both days:

Leader's Name: Thomas E. Balbier, Jr.

Password: ACCV.

The agenda items for March 6 will include, but not limited to: comments from the public on the legislative proposals to change the National Vaccine Injury Compensation Program (VICP), such as the American Academy of Pediatrics' proposed revisions to the VICP, and the House Committee on Government Reform bill titled, ''National Vaccine Injury Compensation Program Improvement Act of 2002,'' an update on the Vaccine Safety Data Link, a presentation of the Institute of Medicine's Report entitled, ''Multiple Immunizations and Immune System Dysfunction,'' and updates from the Office of Special Programs, the VICP, the Department of Justice, and the National Vaccine Program Office.

The agenda items on March 7 will include, but not limited to: a discussion of recommendations from the ACCV Workgroup on Proposed Legislative Changes to the VICP, and a discussion of reversionary trusts.

Persons interested in obtaining a copy of the American Academy of Pediatrics' proposed revisions to the VICP, and the proposed bill titled, ''National Vaccine Injury Compensation Program Improvement Act of 2002'' may contact Ms. Cheryl Lee by telephone at (301) 443–2124 or by e-mail at *clee@hrsa.gov* prior to March 6.

Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Ms. Cheryl Lee, Principal Staff Liaison, Division of Vaccine Injury Compensation, Office of Special Programs, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, MD 20857 or by e-mail at *clee@hrsa.gov.* Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but desire to make an oral statement, may sign-up in the Georgetown Conference Room on March 6 and March 7. These persons will be allocated time as time permits.

Anyone requiring information regarding the ACCV should contact Ms. Cheryl Lee, Principal Staff Liaison, Division of Vaccine Injury Compensation, Office of Special Programs, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–2124 or e-mail: *clee@hrsa.gov.*

Agenda items are subject to change as priorities dictate.

Dated: February 19, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–4458 Filed 2–20–02; 3:34 pm]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye 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 Eye Institute Special Emphasis Panel.

Date: March 14–15, 2002.

Time: March 14, 2002, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814,

Time: March 15, 2002, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Samuel Rawlings, PhD, Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, Bethesda, MD 20892, 301–496–5561.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: February 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4441 Filed 2–22–02; 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 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, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel ''Develop New Technologies for Drug Abuse Prevention Delivery''.

Date: March 14, 2002.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Doubletree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

(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 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4442 Filed 2–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 7–8, 2002.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD, 20892–9606, 301–443–1513, psherida@mail.nih.gov.

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 Mental Health Special Emphasis Panel.
Date: March 15, 2002.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1225, rweise@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 18, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6149, MSC9606, Bethesda, MD 20892–9606, 301–443–6102, jsherrill@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 20, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC9606, Bethesda, MD 20892–9606, 301–443–6102, rweise@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 25, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–6102, jsherrill@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: April 5, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1225, rweise@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award, 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4443 Filed 2–22–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 7, 2002.
Time: 4:00 PM to 6:00 PM.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call)
Contact Person: David I. Sommers, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, dsommers@mail.nih.gov.

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 Mental Health Special Emphasis Panel.
Date: March 21, 2002.
Time: 3:00 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Nueroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call)
Contact Person: David I. Sommers, PhD., Scientific Review Administrator, Division of Extramural Activities, National institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD, 20892–9606, 301–443–6470, dsommers@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4444 Filed 2–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Initial Review Group.
Date: February 21–22, 2002.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel & Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: John E. Richters, PhD, Scientific Review Administrator, National Institute of Nursing Research, National Institutes of Health, Natcher Building, Room 3AN32, Bethesda, MD 20892, (301) 594–5971.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: February 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4445 Filed 2–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Enter for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 1, 2002.
Time: 10:30 am to 11:30 am.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)
Contact Person: George W. Chacko, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room: 4202, MSC: 7812, Bethesda, MD 20892, 301–435–1220, chackoge@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: March 1, 2002.
Time: 3 pm to 5 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.
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: Biophysical and Chemical Sciences Integrated Review Group, Physical Biochemistry Study Section.
Date: March 3–5, 2002.
Time: 8:30 am to 2 pm.
Agenda: To review and evaluate grant applications.
Place: Pooks Hill Marriot, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Gopa Rakhit, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–1721, rakhitg@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, Clinical Oncology Study Section.
Date: March 3–5, 2002.
Time: 7 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.

Contact Person: Sharon K. Pulfer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767.
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: March 3–5, 2002.
Time: 7 pm to 11 am.
Agenda: To review and evaluate grant applications.
Place: Best Western University Tower, 4507 Brooklyn Avenue NE., Seattle, WA 98105.
Contact Person: Nadarajen A. Vydelingum, PhD, 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: March 4–5, 2002.
Time: 8 am to 6 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Mission Bay/Sea World Area, 3737 Sports Arena Blvd., San Diego, CA 92110.
Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.
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: March 4–5, 2002.
Time: 8 am to 4:30 pm.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Suites, 285 North Palm Canyon Drive, Palm Springs, CA 92262.
Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@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: AIDS and Related Research Integrated Review Group, AIDS and Related Research 2.
Date: March 4–5, 2002.
Time: 8 am to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Suites, 285 North Palm Canyon Drive, Palm Springs, CA 92262.
Contact Person: Abraham P. Bautista, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7852, Bethesda, MD 20892, (301) 435–1506.
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: March 4–5, 2002.
Time: 8:30 am to 1 pm.
Agenda: To review and evaluate grant applications.

Place: River Inn, 924 25th Street, NW, Washington, DC 20037.

Contact Person: Stephen M. Nigida, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7812, Bethesda, MD 20892, (301) 435–3565.

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: AIDS and Related Research Integrated Review Group, AIDS and Related Research 3.

Date: March 4, 2002.

Time: 8:30 am to 5:30 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Suites, 285 North Palm Canyon Drive, Palm Springs, CA 92262.

Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1168.

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: March 4, 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: Sally Ann Amero, PhD, 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.

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: March 5, 2002.

Time: 8 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: N. 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.

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: March 5, 2002.

Time: 9 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: Michael A Oxman, PhD, 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.

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: March 5, 2002.

Time: 10 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Suites, 285 North Palm Canyon Drive, Palm Springs, CA 92262.

Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892. (301) 435–1168.

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: March 5, 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: 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: Center for Scientific Review Special Emphasis Panel.

Date: March 6, 2002.

Time: 8 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, bunnagb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 6, 2002.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, bunnagb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 6, 2002.

Time: 2 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, bunnagb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 6, 2002.

Time: 2:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: 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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 6–8, 2002.

Time: 6:00 pm to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington, Hotel, 1400 M Street NW, Washington, DC 20005–2750.

Contact Person: Anita Miller Sostek, PhD, 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: Center for Scientific Review Special Emphasis Panel.

Date: March 6–8, 2002.

Time: 6:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Radisson Barcelo, 2121 P Street, NW, Washington, DC 20037.

Contact Person: David L. Simpson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278, simpsod@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 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4446 Filed 2–22–02; 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: Cardiovascular Sciences Integrated Review Group, Experimental Cardiovascular Sciences Study Section.
Date: March 4–5, 2002.
Time: 8 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.
Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210.
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: March 5, 2002.
Time: 3:00 pm to 3:30 pm.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.
Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210.
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: March 7–8, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 208982, (301) 435–1725.
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: Cardiovascular Sciences Integrated Review Group, Cardiovascular Study Section.
Date: March 7–8, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Gordon L. Johnson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, (301) 435–1212, *johnsong@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: March 7–8, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: The Westin Fairfax, 2100 Massachusetts Ave. NW., Washington, DC 20008.
Contact Person: Gillian Einstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5198, MSC 7850, Bethesda, MD 20817, (301) 435–4433, *einsteig@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: Cardiovascular Sciences Integrated Review Group, Pharmacology Study Section.
Date: March 7–8, 2002.
Time: 8 am to 12 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7804, Bethesda, MD 20892, 301–435–4522, *gibson@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 and Special Emphasis Panel.
Date: March 7, 2002.
Time: 8:00 am to 11:00 am.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, *bunnagb@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: March 7–8, 2002.
Time: 9:00 am to 4:00 pm.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th Street, Washington, DC 20037.
Contact Person: Gloria B. Levin, PhD, 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: March 7–8, 2002.
Time: 9:00 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.
Contact Person: Jeffrey W. Elias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 435–0913.
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: March 7–8, 2002.
Time: 10:00 am to 6:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Nancy Shinowara, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, Bethesda, MD 20892–7814, (301) 435–1173, *shinowan@drg.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: March 7–8, 2002.
Time: 11:30 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, *bunnagb@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: March 7, 2002.

Time: 1:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: 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.

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: March 7, 2002.

Time: 2:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: 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.*

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: March 8, 2002.

Time: 7 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: 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.

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: March 8, 2002.

Time: 9 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.

Contact Person: Noni Byrnes, PhD, 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.*

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: March 8, 2002.

Time: 11 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jerrold Fried, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, (301) 435–1777.

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: March 8, 2002.

Time: 2 am to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892, (301) 435–3566, *cooperc@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: March 11, 2002.

Time: 7 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 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, *langm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 11, 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: Daniel McPherson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, (301) 435–1175, *mcphersod@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 11, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Hilton Hotel, 8727 Colesville Road, Silver Spring, MD 20910.

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, *nelsonja@csr.nih.gov.*

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group, Orthopedics and Musculoskeletal Study Section.

Date: March 11–12, 2002.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, NW., Washington, DC 20007.

Contact Person: Daniel F. McDonald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, Respiratory Physiology Study Section.

Date: March 11, 2002.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: The Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Everett E. Sinnett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, General Medicine A Subcommittee 2.

Date: March 11–13, 2002.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: The Washington Monarch Hotel, 2401 M Street NW., Washington, DC 20037.

Contact Person: Mushtaq A. Khan, DVM, PhD, 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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 11, 2002.

Time: 1:00 am to 3:00 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: March 11, 2002.

Time: 1:30 am to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC, Bethesda, MD 20892, (301) 435–0692.

(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 19, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–4447 Filed 2–22–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

National Wildlife Refuge System; National Wildlife Refuge System Centennial Commission Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting of National Wildlife Refuge Centennial Commission.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App1, section 10), notice is hereby given that the National Wildlife Refuge System Centennial Commission will hold its first meeting.

DATES: The meeting will be held March 12, 13, 2002, in Washington, DC. The meeting will convene at 9:00 a.m. ending each day at approximately 4:30 p.m.

ADDRESSES: The meeting is scheduled to be held at: The American Geophysical Union Building, 2000 Florida Avenue, NW., Washington, DC 20009.

FOR FURTHER INFORMATION CONTACT: Laurie Shaffer, 703–358–2035.

SUPPLEMENTARY INFORMATION: The Centennial Commission was established by Title III, Section 303 of the Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000 (H.R. 3671). The purpose of the Commission is to prepare, in cooperation with Federal, State, local, and nongovernmental partners, a plan to commemorate the centennial of the National Wildlife Refuge System beginning on March 14, 2003. They are also charged with planning a conference for the Centennial year.

The meeting will be open to the public, however, facilities and space of accommodating members of the public are limited and persons will be accommodated on a first-come first-served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device or materials in an alternate format), notify the contact person listed in this notice at least 2 weeks before the scheduled meeting date. We will make attempts to meet any request(s) received after that date, however, the requested auxiliary aid or service may not be available due to insufficient time.

Anyone may file with the Commission a written statement concerning matters to be discussed. The Commission may also permit attendees to address the Commission but may restrict the length of the presentations, as necessary, to allow the Commission to complete its agenda within the allotted time.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Make requests to the Director, U.S. Fish and Wildlife Service, attention: Centennial Commission Coordinator at least 7 days prior to the meeting. Further information regarding the meeting may be obtained from the Division of Visitor Services and Communications, National Wildlife Refuge System, 4401 N. Fairfax Drive, Arlington, VA 22203. Telephone: 703–358–2035.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting in Room 600, 4401 N. Fairfax Drive, Arlington, VA 22203.

Matters To Be Considered

Major topics for discussion during this meeting include:

Welcome

Objectives of the meeting

Addition and corrections to the agenda

Business:

1. Introduction to the National Wildlife Refuge System
2. Commission—Purpose, Objectives, Rules, Staffing, Budget, Other Resources
3. Centennial Events and Plans
4. Conference Proposal
5. Funding opportunities and partnerships

Closing remarks (including summary of accomplishments of the meeting, date of next proposed meeting, assignment of tasks). The Commission will also discuss organizational and administrative needs.

Dated: February 19, 2002.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 02–4536 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Application Notice Describing the Areas of Interest and Establishing the Closing Date for Receipt of Applications Under the National Earthquake Hazards Reduction Program (NEHRP) for Fiscal Year (FY) 2003

AGENCY: Department of the Interior, U.S. Geological Survey.

ACTION: Notice.

SUMMARY: Applications are invited for research projects under the NEHRP.

The purpose of this Program is to support the USGS Earthquake Hazards Program by providing products for earthquake loss reduction to the public and private sectors and by carrying out research on earthquake occurrence and effects.

Applications may be submitted by educational institutions, private firms, private foundations, individuals, and agencies of state and local governments.

ADDRESSES: The program announcement is expected to be available on or about February 19, 2002. You may obtain a copy of Announcement No. 03HQPA0001 from the USGS Contracts and Grants Information Site at *http://www.usgs.gov/contracts/nehrp/* or by writing to Sherri Newman, U.S. Geological Survey, Office of Acquisition and Grants—Mail Stop 205G, 12201 Sunrise Valley Drive, Reston, Virginia 20192, or by fax (703) 648–7901.

DATES: The closing date for receipt of applications will be on or about May 1, 2002. The actual closing date will be specified in Announcement No. 03HQPA0001.

FOR FURTHER INFORMATION CONTACT: John Unger, Earthquake Hazards Reduction Program—U.S. Geological Survey, Mail Stop 905, 12201 Sunrise Valley Drive, Reston, Virginia 20192. Telephone: (703) 648–6701.

SUPPLEMENTARY INFORMATION: Authority for this program is contained in the Earthquake Hazards Reduction Act of 1977, Public Law 95–124 (42 U.S.C. 7701, *et. seq.*). The Office of

Management and Budget Catalog of Federal Domestic Assistance Number is 15.807.

Dated: February 5, 2002.

Patricia P. Dunham,

Deputy, Chief, Office of Administrative Policy and Services.

[FR Doc. 02–4334 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ET; NVN–66423 Public Land Order No. 7505]

Withdrawal of Public Land for Bureau of Land Management Wildland Fire Station Site; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws a 0.57-acre parcel of public land from surface entry and mining to protect a Bureau of Land Management wildland fire station site. The land is located within the incorporated city of Carlin, Nevada, and is not subject to the Mineral Leasing Act of 1920 (43 CFR 3100.0–3(a)(2)(iii)).

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 775–861–6532.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2, (1994)), to protect a Bureau of Land Management wildland fire station site:

Mount Diablo Meridian

T. 33 N., R. 52 E.,

Sec. 27, lots 8 to17, inclusive in Block 6, Town of Carlin, as shown on the map filed in the office of the County Recorder of Elko County, Nevada, on March 6, 1919.

The area described contains 0.57 acres in Elko County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of the mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order, unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: November 2, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02–4373 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of March 14, 2002 meeting.

SUMMARY: This notice sets forth the date of the March 14, 2002 meeting of the Gettysburg National Military Park Advisory Commission.

DATES: The public meeting will be held on March 14, 2002 from 7:00 p.m. to 9:00 p.m.

LOCATION: The meeting will be held at the Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

Agenda: The March 14, 2002 meeting will consist of the Election of Officers which will be the election of Chairperson and Vice-Chairperson for the 2002 year; Sub-Committee reports from the Historical, Executive, and Interpretive Committees; Federal Consistency Reports Within the Gettysburg Battlefield Historic District; Operational Updates on Park Activities which consist of a briefing by the Museum Foundation on the conceptual design of the new Museum/Visitor Center complex; the Historic Landscape Rehabilitation which consists of the tree reduction in the Codori, Codori-Trostle, Trostle and Herbst woodlots; updating on the schedule of repairs for Pennsylvania Monument; Construction—consisting of the Fire Suppression for 50 historic structures; the Sewer Project and the Waterline project; Transportation—consisting of the National Park Service and the Gettysburg Borough working on the shuttle system, update of the Willoughby Run Bridge located on Route 30; update on land acquisition within the park boundary or in the historic district; and the Citizens Open Forum where the public can make comments and ask questions on any park activity.

FOR FURTHER INFORMATION CONTACT: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Gettysburg National Military Park Advisory Commission, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: February 4, 2002.

John A. Latschar,

Superintendent, Gettysburg NMP/Eisenhower NHS.

[FR Doc. 02–4338 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–70–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–920 (Final)]

Certain Welded Large Diameter Line Pipe From Mexico

Determination

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Mexico of certain welded large diameter line pipe, provided for in subheadings 7305.11.10, 7305.11.50, 7305.12.10, 7305.12.50, 7305.19.10, and 7305.19.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective January 10, 2001, following receipt of a petition filed with the Commission and Commerce by Berg Steel Pipe Corp. (Panama City, FL); American Steel Pipe Division of American Cast Iron Pipe Co. (Birmingham, AL); and Stupp Corp. (Baton Rouge, LA). The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain welded large diameter line pipe from

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Mexico were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 9, 2001 (66 FR 35811). The hearing was held in Washington, DC, on October 9, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in the investigation to the Secretary of Commerce on February 19, 2002. The views of the Commission are contained in USITC Publication 3487 (February 2002), entitled Certain Welded Large Diameter Line Pipe from Mexico: Investigation No. 731–TA–920 (Final).

Issued: February 19, 2002.

By order of the Commission.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–4346 Filed 2–22–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Under section 122(d)(2) of CERCLA, 42 U.S.C. 9622(d)(2), and 28 CFR 50.7, notice is hereby given that on January 9, 2002, a proposed Consent Decree in two consolidated cases, *United States* v. *Allied Battery Co.,* Civil No. CV–98–N–0446–S, and *United States* v. *CSX Transportation, Inc.,* CV–98–N–2561–S, was lodged with the United States District Court for the Northern District of Alabama.

The United States' Complaints in these actions seek recovery of over $2.1 million in costs incurred by the United States Environmental Protection Agency in conducting a soil cleanup removal action at the Carlie Lee Superfund Site near Birmingham, Alabama. The United States filed its Complaints pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607(a).

The proposed Consent Decree contains a settlement with the remaining Defendants, two Third-party Defendants, and two federal agencies. The Settling Defendants and Third-party Defendants are CSX Transportation, Lucent Technologies, Thompson Tractor Company, BellSouth Corporation, BellSouth Telecommunications, Inc., and Jefferson County, Alabama. The settling federal agencies are the U.S. Department of Defense, including the Defense Reutilization and Marketing Service (''DRMS''). Under the proposed Consent Decree, the settlors collectively agree to pay a total of $978,214.68. The settling Defendants and Third-party Defendants have agreed to pay a total of $608,666.91. The settling federal agencies have agreed to pay $369,547.75.

The Department of Justice will receive comment relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. As a result of the discovery of anthrax contamination at the District of Columbia mail processing center in mid-October, 2001, the delivery of regular first-class mail sent through the U.S. Postal Service has been disrupted. Consequently, public comments which are addressed to the Department of Justice in Washington, D.C. and sent by regular, first-class mail through the U.S. Postal Service are not expected to be received in timely manner. Therefore, comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, and sent: (1) By regular, first-class mail through the U.S. Postal Service, c/o Karen Singer, U.S. Environmental Protection Agency, Region 4, EAD, 61 Forsyth Street, S.E., Atlanta, Georgia, 30303; and/or (2) by facsimile to (202) 353–0296; and/or (3) by overnight delivery, other than through the U.S. Postal Service, to Chief, Environmental Enforcement Section, 1425 New York Avenue, NW, 13th Floor, Washington, DC 20005.

Each communication should refer on its face the *U.S.* v. *CSX Transp.,* CV98–N–2561–S, and D.J. Ref. 90–11–3–1758/1.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Northern District of Alabama, 200 Fed. Bldg., 1800 Fifth Avenue North, Room 200, Birmingham, Alabama, and also at the Region 4 Office of the Environmental Protection Agency, Region 4, 61 Forsyth Street, SE., Atlanta, Georgia.

A copy of the proposed Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202) 616–6584; phone confirmation no. (202) 514–1547.

There is a charge for the copy (25 cents per page reproduction cost). Upon requesting a copy, please mail a check payable to the ''U.S. Treasury'' in the amount of $7.00, to: Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. The check should refer to *U.S.* v. *CSX Transp.,* D.J. No. 90–11–3–1758/1.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. 02–4433 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Under section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9622(d)(2), and 28 CFR 50.7, notice is hereby given that on January 12, 2002, a proposed Consent Decree in *United States* v. *Franc Motors, et al.,* Civil Action No. 3:02CV71(AWT), was lodged with the United States District Court for the District of Connecticut.

In this action, the United States sought recovery of over $1.6 million of costs incurred by the United States Environmental Protection Agency in conducting a removal action at the National Oil Service Superfund Site in West Haven, Connecticut. The United States filed its complaint pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), seeking recovery of over $1.6 million. The complaint named 8 defendants which arranged for the disposal of waste oil at the Site. The proposed Consent Decree resolves the United States' cost recovery claims against all of those defendants. Under the proposed Consent Decree, settling defendants collectively agree to pay over $300,000 in partial reimbursement of the United States' response costs.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. As a result of the discovery of anthrax contamination at the District of Columbia mail processing center in mid-October, 2001, the delivery of regular mail sent through the U.S. Postal Service has been disrupted. Consequently, public comments which are addressed to the Department of Justice in Washington, DC and sent by regular, first-class mail through the U.S.

Postal Service are not expected to be received in a timely manner. Therefore, comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, and sent (1) C/O Eve Vaudo, U.S. E.P.A. Region 1, One Congress Street, Boston, MA 02114–2023; (2) by facsimile to (202) 353–0296; and/or (3) by overnight delivery, other than through the U.S. Postal Service, to Chief, Environmental Enforcement Section, 1425 New York Avenue, NW, 13th Floor, Washington, DC 20005. Each communication should refer on its face to *United States* v. *Franc Motors, et al.,* D.J. Ref. 90–11–3–07333/3.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Connecticut Financial Center, New Haven, CT, and at the Region 1 office of the Environmental Protection Agency, One Congress Stree, Boston, MA. A copy of the proposed Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202) 616–6584; phone confirmation no. (202) 514–1547. There is a charge for the copy (25 cents per page reproduction cost). Upon requesting a copy, please mail a check payable to the ''U.S. Treasury,'' in the amount of amount of five dollars ($5.00) to the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. The check should refer to *United States* v. *Franc Motors, et al.,* D.J. Ref. 90–11–3–07333/3.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–4432 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Pursuant to the Clean Water Act

Notice is hereby given that a proposed Consent Decree in *United States of America and the State of Alabama* v. *The Board of Water and Sewer Commissioners of the City of Mobile, Alabama*, Civ. No. 02–0058–CB–S, and *Mobile Bay Watch, Inc.* v. *The Board of Water and Sewer Commissioners of the City of Mobile, Alabama*, Civ. No. CV–99–0595–CB–S, was lodged on January 24, 2002, with the United States District Court for the Southern District of Alabama.

The proposed Consent Decree would resolve certain claims under sections 301 and 402 of the Clean Water Act, 33 U.S.C. 1251, *et seq.*, against the Board of Water and Sewer Commissioners of the City of Mobile, Alabama (''Board''), through the performance of injunctive measures, the payment of a civil penalty, and the performance of Supplemental Environmental Projects (''SEPs''). The United States, the State of Alabama and Mobile Bay Watch, Inc., allege that the Board is liable as a person who has discharged a pollutant from a point source to navigable waters of the United States without a permit and, in some cases, in excess of permit limitations.

The proposed Consent Decree would resolve the liability of the Board for the violations alleged in the complaints filed in these matters. The proposed Consent Decree would release claims against the Board for performance of injunctive measures to remedy the alleged violations, and for penalties for the violations alleged in the complaints. To resolve these claims, the Board would perform the injunctive measures described in the proposed Consent Decree, including the implementation of a capacity assurance program, a grease control program, and a water quality monitoring program; would pay a civil penalty of $114,000 ($99,000 to the United States Treasury and $15,000 to the State of Alabama); and would perform four SEPs valued at $2.5 million collectively, including the installation of new private sewer laterals in low-income households within the Board's service area, the acquisition of environmentally beneficial parcels of land, and the creation of a water quality monitoring database.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this application. As a result of the discovery of anthrax contamination at the District of Columbia mail processing center in mid-October, 2001, the delivery of regular first-class mail sent through the U.S. Postal Service has been disrupted. Consequently, public comments which are addressed to the Department of Justice in Washington, DC and sent by regular, first-class mail through the U.S. Postal Service are not expected to be received in timely manner. Therefore, comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, and sent: (1) c/o Melissa Heath, Assistant Regional Counsel, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303; and/or (2) by facsimile to (202) 353–0296; and/or (3) by overnight delivery, other than through the U.S. Postal Service, to Chief, Environmental Enforcement Section, 1425 New York Avenue, NW, 13th Floor, Washington, DC 20005. Each communication should refer on its face to *United States* v. *The Board of Water and Sewer Commissioners of the City of Mobile, Alabama,* DJ No. 90–5–1–1–06985.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Southern District of Alabama, 63 South Royal Street, Mobile, AL 36602, and at the Region 4 Office of the Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta GA 30303. A copy of the proposed Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202) 616–6584; phone confirmation no. (202) 514–1547. There is a charge for the copy (25 cents per page reproduction cost). Upon requesting a copy, please mail a check payable to the ''U.S. Treasury'', in the amount of $25.75, to: Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. The check should refer to *United States* v. *The Board of Water and Sewer Commissioners of the City of Mobile, Alabama,* DJ No. 90–5–1–1–06985.

Walker Smith,

Principal Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–4431 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Amendment To Consent Decree in Accordance With the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

In accordance with Department of Justice Policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that on January 17, 2002, a proposed Order to Amend Consent Decree was lodged with the United States District Court for the Eastern District of Pennsylvania in *United states and the Commonwealth of Pennsylvania* v. *Settling Defendants,* Civil Action No. 99–4402.

In 1999, the United States and Settling Defendants entered into a Consent Decree in this case concerning the Malvern TCE Superfund Site (''Site'') in Chester County, Pennsylvania, for conduct of certain response actions at the Site and the payment of certain response costs

therefore. This Consent Decree was entered by the Court on December 13, 1999.

The Consent Decree contains a reservation of rights by the Settling Defendants as to, among other things, claims against the United States ''based on the discovery of information or documentation that * * * the volume of hazardous substances attributable to the United states exceeds the amount agreed to by the Settling Parties * * *.'' Decree paragraph 109(c). Appendix F to the Decree provides a procedure and payment schedule that specifies the response costs on a per-drum basis for such additional waste attributable to the United States.

Additional drums of waste attributable to the United States Department of the Army (''Army'') and to the National Institutes of Health (''NIH'') have been identified. Accordingly, the United States and Settling Defendants have agreed to amendments to the Consent Decree to: (1) Add the Army and NIH as parties to the Consent Decree, thereby resolving potential claims against these Agencies for cleanup costs relating to drums of hazardous waste discovered at the Site; and to (2) reflect that 203 drums have been attributed to the Army, and that 165.60 drums have been attributed to NIH, with a total proposed payment by the United States to the Settling Performing Defendants of $464,506.90, on behalf of these Agencies as their respective shares of the performance and payment obligations to be incurred by Settling Defendants in carrying out response actions required by the Consent Decree. Consistent with the applicable requirement of the Consent Decree, the Commonwealth of Pennsylvania has been consulted and has concurred in the amendments.

The Department of Justice will receive written comments by facsimile transmission (''FAX'') relating to the proposed Order to Amend Consent Decree for thirty (30) days from the date of publication of this Notice. Comments should be sent by FAX to (202) 514–8865, and should be addressed to D. Judith Keith, Environment and Natural Resources Division, Environmental Defense Section, U.S. Department of Justice, Washington, DC, and should refer to *United States and the Commonwealth of Pennsylvania* v. *Settling Defendants,* DOJ. Ref. No. 90–11–6–80.

A copy of the proposed Order to Amend Consent Decree may be obtained by request. Requests should be sent by FAX to (202) 514–8865, and should be addressed to Allison Booker, U.S. Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, and should refer to the proposed Order to Amend Consent Decree in *United States and the Commonwealth of Pennsylvania* v. *Settling Defendants,* DOJ. Ref. No. 90–11–6–80.

Letitia J. Grishaw,

Chief, Environment & Natural Resources Division, Environmental Defense Section.

[FR Doc. 02–4434 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Sprint Corp. and Joint Venture Co., Civil No. 95–1304 (D.D.C.); United States' Notice of Proposed Medication of the Final Judgment

Notice is hereby given that the United States and both Sprint Corporation (''Sprint'') and Equant N.V. (''Equant''), defendants in the above-captioned matter, have entered into a Stipulation to modify the Final Judgment entered by the United States District Court for the District of Columbia on February 16, 1996. In this Stipulation filed with the Court, the United States has provisionally consented to modification of the Final Judgment, but has reserved the right to withdraw its consent pending receipt of public comments.

On July 13, 1995, the United States filed the complaint in this case. The complaint alleged that the sale of 20% of the voting shares of Sprint to France Telecom (''FT'') and Deutsche Telekom A.G. (''DT'') and the formation of a joint venture among Sprint, FT and DT to provide certain international telecommunications services, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, in the markets for international telecommunications services between the United States and France and the United States and Germany, and in the markets for seamless international telecommunications services. At the same time as it filed the Complaint, the United States filed a proposed Final Judgment to resolve the competitive concerns alleged in the Complaint, and a stipulation by defendants and the United States consenting thereto.

At the time of the entry of the Final Judgment, Joint Venture Co. was the proposed joint venture of Sprint, FT and DT. Subsequently, the joint venture was formed and given the name Global One. In January 2000, Sprint, FT and DT agreed to terminate their joint venture, with FT acquiring sole ownership of the former joint venture, but Global One continued to be bound by the Final Judgment as the successor to the joint venture. In July 2001 Global One was acquired by Equant N.V., and FT acquired majority ownership and control of Equant. Therefore, Equant, as the successor to Global One, is now identified as the defendant that was referred to as Joint Venture Co. in the Final Judgment, and is substituted for Joint Venture Co. in the proposed Modified Final Judgment.

The Final Judgment, which was entered by consent of the parties on February 16, 1996, includes various restrictions affecting Sprint and Equant's relationship to FT and DT. These restrictions operated in two distinct phases, lessening over time as competition developed in France and in Germany. The Phase I restrictions, contained in Section III of the Final Judgment, were terminated by the Court on November 2, 1998, pursuant to a stipulation between the United States and the defendants, in recognition of competitive developments in France and Germany. Defendants continue to be subject to the substantive obligations of Section II of the Final Judgment until January 1, 2003. The Section II obligations, which are intended to prevent Equant and Sprint from receiving competitive advantages from their association with FT and DT: (1) Require Equant and Sprint to disclose certain information related to prices, terms and conditions of certain FT and DT telecommunications products and services that are provided in France or in Germany or between France and Germany and the United States and are used by Equant or Sprint; (2) preclude Equant and Sprint from receiving competitively sensitive information from FT and DT that FT and DT obtain from the competitors of Equant and Sprint; and (3) prohibit Equant and Sprint from offering certain services between the United States and France and Germany unless other United States providers also have or can readily obtain licenses from the French and German governments to offer the same service.

The United States and defendants Sprint and Equant have provisionally agreed to modify the Final Judgment because of changed circumstances in the relationship between Equant and Sprint, and FT and DT. In June 2001, FT and DT sold their ownership interests in Sprint's FON stock, which formed the basis of the United States' concern about FT's and DT's acquisition of 10% interests in Sprint, and Sprint sold its Global One ownership interest to FT on February 22, 2000. These events form the basis for the proposed termination of

the Final Judgment with respect to Sprint. Furthermore, DT ceased to be an owner of Global One even before Global One was acquired by Equant, having sold its interest to FT pursuant to an agreement reached on January 26, 2000. Therefore, the Final Judgment is also proposed to be modified to eliminate any obligations related to DT's relationship with Equant. Certain provisions of the Final Judgment applicable to Equant's relationship with FT will remain in force, in order to safeguard against anticompetitive conduct by FT favoring Equant. Other provisions of the Final Judgment relating to FT's relationship to Equant will be terminated because they are redundant of other regulatory requirements or superfluous in light of market developments. The provisions that will remain are the reporting requirements of certain information related to the prices, terms and conditions of FT products and services sold by FT to Equant.

The United States has filed a memorandum with the Court setting forth the reasons it believes modification of the Final Judgment would serve the public interest. Copies of the joint Judgment, the stipulation containing the United States' provisional consent to modification of the Final Judgment, the supporting memorandum, and all additional papers filed with the Court in connection with this motion are available for inspection as the Antitrust Documents Group of the Antitrust Division, U.S. Department of Justice, 325 7th Street, NW., Room 215 North, Liberty Place Building, Washington, DC 20530, and at the Office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 2001. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the duplicating fee set out in Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination to the Department of Justice. Such comments must be received by the Antitrust Division within sixty (60) days of the last publication of notices appearing in the *Wall Street Journal* and *Communications Week International,* and will be filed with the Court by the Department. Comments should be addressed to Lawrence M. Frankel, Acting Chief, Telecommunications Task Force, Antitrust Division, U.S. Department of Justice, 1401 H. St., NW., Suite 8000, Washington, DC 20530.

Constance K. Robinson,

Director of Operations & Merger Enforcement.

[FR Doc. 02–4435 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Financial Services Technology Consortium, Inc.

Notice is hereby given that, on December 31, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Financial Services Technology Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, DirectAdvice, Inc., Hartford, CT has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Financial Services Technology Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On October 21, 1993, Financial Services Technology Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 14, 1993 (58 FR 65399).

The last notification was filed with the Department on September 28, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 2, 2001 (66 FR 65882).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–4438 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology

Notice is hereby given that, on January 7, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, E.I. DuPont de Nemours Company, Circleville, OH and Interconnect Technology Research Institute, Austin, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives disclosing all changes in membership.

On October 7, 1998, National Center for Manufacturing Sciences (NCMS): Advanced embedded Passives Technology filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 22, 1999 (64 FR 3571).

The last notification was filed with the Department on May 23, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 22, 2001 (66 FR 33563).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–4436 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; PKI Forum, Inc

Notice is hereby given that, no January 2, 2002, pursuant to section 6(a)

of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PKI Forum, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, DOD/Federal PKI PMO, Ft. Meade, MD; and e-Scotia, Toronto, Ontario, Canada have been added as parties to this venture. Also, Odyssey Technologies, Ltd., Chennai, India; Protegrity, Inc., Stamford, CT; Securify, Inc., Waltham, MA; and Thinkpulse, Inc., San Jose, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PKI Forum, Inc. intends to file additional written notification disclosing all changes in membership.

On April 2, 2001, PKI Forum, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 3, 2001 (66 FR 22260).

The last notification was filed with the Department on September 27, 2001. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–4437 Filed 2–22–02; 8:45 am]

BILLING CODE 4410–11–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before March 27, 2002 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Brooke Dickson, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730 or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on December 3, 2001 (66 FR 60225). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Customer Request for Information and Order Forms.

OMB number: 3095–NEW.

Agency form number: NA Form 14116.

Type of review: Regular.

Affected public: Individuals and households.

Estimated number of respondents: 130,000.

Estimated time per response: 5 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 10,833 hours.

Abstract: The form is a web-based form to be completed by members of the public who wish to either request printed order forms for copies of genealogical records or to obtain information about NARA's archival holdings or services. Customers who request printed forms indicate the type and quantity of form wanted. Those who need information about NARA's archival holdings choose a subject heading to help describe their request. The form entails no burden other than that necessary to identify the customer, the date, the customer's address, and the nature of the request. This information is used only to facilitate answering the request and is not retained after the request is completed, in accordance with approved record schedules. The information is not used for any subsequent purpose.

Dated: February 14, 2002.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 02–4394 Filed 2–22–02; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee

AGENCY: National Communications System (NCS).

ACTION: Notice of Meeting.

SUMMARY: A meeting of the President's National Security Telecommunications Advisory Committee will be held on Wednesday, March 13, 2002, from 9:00 a.m. to 11:30 a.m. The Business Session will be held at the Department of State, Washington, DC.

The agenda is as follows:

—Call to Order/Welcoming Remarks

—Briefings on Lessons Learned from September 11, 2001, Evolving Threat to National Infrastructures, and Wireless Priority Access Service

—National Communications System Manager's Report

—NSTAC XXV Cycle in Review

—Adjournment

Due to the potential requirement to discuss classified information in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense.

FOR FURTHER INFORMATION CONTACT: Telephone Ms. Marilyn Witcher, (703) 607–6214, or write the Manager, National Communications System, 701 South Court House Road, Arlington, Virginia 22204–2198.

Peter Fonash,

Federal Register Liaison Officer, Technology and Programs Division, National Communications System.

[FR Doc. 02–4353 Filed 2–22–02; 8:45 am]

BILLING CODE 5001–08–M

NATIONAL SCIENCE FOUNDATION

Notice of Intent to Seek Approval to Renew an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by April 26, 2002 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: NSF Surveys to Measure Customer Service Satisfaction.

OMB Number: 3145–0157.

Expiration Date of Approval: September 30, 2002.

Type of Request: Intent to seek approval to renew an information collection.

Abstract

Proposed Project: On September 11, 1993, President Clinton issued Executive Order 12862, ''Setting Customer Service Standards,'' which calls for Federal agencies to provide service that matches or exceeds the best service available in the private sector. Section 1(b) of that order requires agencies to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' The National Science Foundation (NSF) has an ongoing need to collect information from its customer community (primarily individuals and organizations engaged in science and engineering research and education) about the quality and kind of services it provides and use that information to help improve agency operations and services.

Use of the Information

Estimate of Burden: The burden on the public will change according to the needs of each individual customer satisfaction survey; however, each survey is estimated to take approximately 30 minutes per response.

Respondents: Will vary among individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal government; State, local or tribal governments.

Estimated Number of Responses per Survey: This will vary by survey.

*Comments:*Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: February 19, 2002.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 02–4349 Filed 2–22–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Comment Request: National Science Foundation—Applicant Survey

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewed clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collections techniques or other forms of information technology.

DATES: Written comments should be received by April 26, 2002, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@msf/gpv/*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton at (703) 292–7556 or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: ''National Science Foundation Applicant Survey.''

OMB Approval Number: 3145–0096.

Expiration Date of Approval: August 31, 2002.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: The current National Science Foundation Applicant survey has been in use for several years. Data are collected from applicant pools to examine the racial/sexual/disability composition and to determine the source of information about NSF vacancies.

Use of the Information: Analysis of the applicant pools is necessary to determine if NSF's targeted recruitment efforts are reaching groups that are underrepresented in the Agency's workforce and/or to defend the Foundation's practices in discrimination cases.

Burden on the Public: The Foundation estimates about 5,000 responses

annually at 3 minutes per response; this computes to approximately 250 hours annually.

Dated: February 20, 2002.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 02–4390 Filed 2–22–02; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Intent of Seek Approval to Extend without Revision a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by April 26, 2002, to be assured of consideration. Comments received after that date witll be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wison Boulevard, Suite 295, Arlingon, Virginia 22230; telephone 703–292–7556; or send email ot splimpto@nsf.gov. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Fellowship Applications and Award Forms.

OMB Approval Number: 3145–0023.

Expiration Date of Approval: September 30, 2002.

Type of Request: Intent to seek approval to extend without revision an information collection for three years.

Abstract

Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1861 *et seq.*), as amended, states that ''The Foundation is authorized to award, within the limits of funds made available * * * scholarships and graduate fellowships for scientific study or scientific work in the mathematical physical, medical, biological, engineering, social, and other sciences at appropriate nonprofit American or nonprofit foreign institutions selected by the recipient of such aid, for stated periods of time.''

The Foundation Fellowship Programs are designed to meet the following objectives:

- To assure that some of the Nation's most talented students in the sciences obtain the education necessary to become creative and productive scientific researchers.
- To train or upgrade advanced scientific personnel to enhance their abilities as teachers and researchers.
- To promote graduate education in the sciences, mathematics, and engineering at institutions that have traditionally served ethnic minorities.
- To encourage pursuit of advanced science degrees by students who are members of ethnic groups traditionally under-represented in the Nation's advanced science personnel pool.

The list of fellowship award programs sponsored by the Foundation includes, but may not be limited to, the following:

NSF Graduate Research Fellowships

Graduate Fellowships
Minority Graduate Fellowships
Women in Engineering and Computer & Information Science
Earth Sciences Postdoctoral Research Fellowships
Postdoctoral Research Fellowships in Chemistry
Mathematical Sciences Postdoctoral Research Fellowships
NSF–NATO Postdoctoral Fellowships and Supporting Engineering
Minority Postdoctoral Research Fellowships and Supporting Activities
Postdoctoral Research Fellowships in Microbial Biology
Postdoctoral Research Fellowships in Biological Informatics
Ridge Inter-Disciplinary Global Experiments
Advanced Study Institute Travel Awards

International Opportunities for Scientists and Engineers

Japan Research Fellows
North American Research fellows
International Research fellows Ethics and Values Fellowship Awards.

Estimate of Burden: These are annual award programs with application deadlines varying according to the fellowship program. Public burden may also vary according to program, however, it is estimated that each submission is averaged to be 12 hours per respondent.

Respondents: Individuals.

Estimated Number of Responses: 13,000.

Estimated Total Annual Burden on Respondents: 156,000 hours.

Frequency of Responses: Annually.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: February 20, 2002.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 02–4391 Filed 2–22–02; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Enforcement Program and Alternative Dispute Resolution; Workshop and Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of workshop and extension of comment period.

SUMMARY: The NRC is convening a workshop to more fully explore the potential use of Alternative Dispute Resolution (ADR) in its enforcement program. This workshop is in response to the notice published in the **Federal Register** on December 14, 2001; 66 FR 64890, that announced NRC's intent to evaluate the use of ADR in its enforcement program. This notice also announces that NRC is extending the comment period for the December 14, 2001, notice to March 29, 2002. The objectives of the workshop will be to develop a better understanding of the range of ADR techniques, how they might apply to specific NRC enforcement scenarios, and the potential advantages and disadvantages of the use of ADR in various parts of the NRC enforcement process. The format of the workshop will be a facilitated discussion among the invited

participants of interests that may be affected by the use of ADR in the NRC enforcement process, as well as expert ADR practitioners from other agencies and private practice. The list of invited participants, as well as the agenda for the workshop, will be posted at the NRC Web site (*www.nrc.gov*) at url *http://www.nrc.gov/what-we-do/regulatory/enforcement/public-involvement.html.*

Invited participants currently include representatives from the Union of Concerned Scientists, the Nuclear Energy Institute, the Environmental Protection Agency's Conflict Prevention and Resolution Center, ADR experts from other federal agencies and private practice, and participants from the nuclear energy bar and the whistleblower protection bar. Representatives from the NRC Office of Enforcement will also participate in the discussion. The workshop will be open to the public. Although the focus of the discussion will be among the invited participants, the audience will be able to engage in the discussion at selected points during the workshop.

DATES: The workshop will be held on March 12, 2002, from 9 a.m. to 5 p.m. The comment period is extended to March 29, 2002.

ADDRESSES: The workshop will be held at the Kentlands Mansion, 320 Kent Square Road, Gaithersburg, MD 20878. Directions to Kentlands Mansion will be available at the NRC Web site address cited above. In order to optimize the limited space at the facility, it would be helpful if those planning to attend the workshop would notify Mr. Terrence Reis, Senior Enforcement Specialist, Office of Enforcement, U.S. Nuclear Regulatory Commission, by March 4, 2002. Mr. Reis's contact information is contained below in the **FOR FURTHER INFORMATION CONTACT** section.

In terms of the extended public comment period, submit written responses to the notice published on December 14, 2001, to Mr. Michael Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. to 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852. Comments also may be sent electronically to Mr. Lesar, e-mail *mtl@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Terrence Reis, Senior Enforcement Specialist, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 (301) 415–3281, e-mail *txr@nrc.gov* or Francis X. Cameron, NRC ADR Specialist, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–1642, e-mail *fxc@nrc.gov.*

SUPPLEMENTARY INFORMATION: ''ADR'' is a term that refers to a number of voluntary processes, such as mediation and facilitated dialogues, that can be used to assist parties in resolving disputes and potential conflicts. The Administrative Dispute Resolution Act of 1996 (ADRA) encourages the use of ADR by Federal agencies, and defines ADR as ''any procedure that is used to resolve issues in controversy, including but not limited to, conciliation, facilitation, mediation, fact finding, mini trials, arbitration, and use of an ombudsman, or any combination thereof.'' 5 U.S.C. 571(3). These techniques involve the use of a neutral third party, either from within the agency or from outside the agency, and are typically voluntary processes in terms of the decision to participate, the type of process used, and the content of the final agreement. Federal agency experience with ADR has demonstrated that the use of these techniques can result in the more efficient resolution of issues, more effective outcomes, and improved relationships between the agency and the other party.

The NRC has a general ADR Policy, 57 FR 36678, August 14, 1992 that supports and encourages the use of ADR in NRC activities. In addition, the NRC has used ADR effectively in a variety of circumstances, including rulemaking and policy development, and EEO disputes. There has been no systematic evaluation of the need for ADR in the enforcement process. As part of the NRC's participation in an interagency process in 1998 by the Clinton Administration to encourage a broader use of ADR by Federal agencies, and an inquiry in regard to the use of ADR in a specific enforcement case, have caused the NRC to consider whether a new, specific ADR policy would be beneficial in the enforcement area.

The Commission previously requested public comment on the potential use of ADR in the Commission's enforcement process at 66 FR 64890, on December 14, 2001. In that Notice, the Commission identified a number of issues on which it specifically requested comment:

1. Is there a need to provide for additional avenues, other than that provided for in 10 CFR 2.203, for the use of ADR in NRC enforcement activities?

2. What are the potential benefits of using ADR in the NRC enforcement process?

3. What are the potential detriments of using ADR in the NRC enforcement process?

4. What would be the scope of disputes for which ADR techniques could be utilized?

5. At what points in the existing enforcement process might ADR be used?

6. What types of ADR techniques might most effectively be used in the NRC enforcement process?

7. Does the nature of the existing enforcement process for either reactor or materials licensees limit the effectiveness of ADR?

8. Would any need for confidentiality in the ADR process be perceived negatively by the public?

9. For policy reasons, are there any enforcement areas where it shouldn't be used, e.g., wrongdoing, precedent-setting areas?

10. What factors should be considered in instituting an ADR process for the enforcement area?

11. What should serve as the source of neutrals for use in the ADR process for enforcement?

Several responses have been received on these and other issues in response to the request for public comment. The NRC is now taking two actions:

1. The NRC is extending the public comment period on the original (December 14, 2001) **Federal Register** Notice to March 29, 2002; and

2. The NRC is convening a workshop to more fully explore the potential use of ADR in its enforcement program. The objectives and format for the workshop are stated in the **SUMMARY** section of this notice.

Francis X. Cameron, the Commission's Alternative Dispute Resolution Specialist, will be the convener and facilitator for the workshops. Questions about participation may be directed to the facilitator, Francis X. Cameron. Copies of the original **Federal Register** Notice requesting comment on the potential use of ADR in the NRC enforcement process, the NRC's existing ADR policy statement, the public comments received, the agenda for the workshop, and the roundtable participants, can be obtained at the NRC Web site (*www.nrc.gov*) at url *http://www.nrc.gov/what-we-do/regulatory/enforcement/public-involvement.html*

Copies also can be obtained from either of the NRC contacts identified at the beginning of this notice. The

workshop commentary will be transcribed and made available to the participants and the public.

Dated at Rockville, Maryland, this 19th day of February, 2002.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

[FR Doc. 02–4380 Filed 2–22–02; 8:45 am]

BILLING CODE 7590–01–M

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 8 a.m., Monday, March 4, 2002; 8:30 a.m., Tuesday, March 5, 2002.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: March 4–8 a.m. (Closed); March 5–8:30 a.m. (Open).

MATTERS TO BE CONSIDERED

Monday, March 4–8 a.m. (Closed)

1. Financial Performance.
2. Strategic Planning.
3. Preliminary Annual Performance Plan Targets FY 2003.
4. Personnel Matters and Compensation Issues.

Tuesday, March 5–8:30 a.m. (Open)

1. Minutes of the Previous Meeting, February 4–5, 2002.
2. Remarks of the Postmaster General and CEO.

Fiscal Year 2001 Comprehensive Statement on Postal Operations.

4. Consideration of Borrowing Resolution.
5. Capital Investment.

a. Burlingame, California, Peninsula Delivery Distribution Center.

6. Tentative Agenda for the April 8–9, 2002, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,

Secretary.

[FR Doc. 02–4537 Filed 2–21–02; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT. [67 FR 7208, February 15, 2002]

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, February 21, 2002, at 10 a.m.

CHANGE IN THE MEETING: Additional Item.

The following item has been added to the closed meeting scheduled for Thursday, February 21, 2002: Consideration of amicus participation.

Commissioner Glassman, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: February 20, 2002.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–4509 Filed 2–21–02; 8:47 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 25, 2002: An open meeting will be held on Wednesday, February 27, 2002 at 10 a.m., in Room 1C30, the William O. Douglas Room, and closed meetings will be held on Wednesday, February 27, 2002 at 11 a.m. and Thursday, February 28, 2002 at 10 a.m.

The subject matter of the open meeting scheduled for Wednesday, February 27, 2002, will be: The Commission will hear oral argument on an appeal by Sandra K. Simpson, formerly an associated person with a registered broker-dealer, from the decision of an administrative law judge. For further information, contact Roy Sheetz at (202) 942–0950.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (8), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (8), 9(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matter of the closed meeting scheduled for Wednesday, February 27, 2002, will be: Post-argument discussion.

The subject matter of the closed meeting scheduled for Thursday, February 28, 2002, will be: Inspection report; institution and settlement of injunctive actions; institution and settlement of administrative proceedings of an enforcement nature; and formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: February 20, 2002.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–4510 Filed 2–21–02; 11:47 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45457; File No. SR–NASD–2002–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Anti-Money Laundering Compliance Programs

February 19, 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 February 15, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, NASD Regulation, Inc. (''NASD Regulation'') 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 NASD Regulation. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

NASD Regulation proposes to establish NASD Rule 3011, Anti-Money Laundering Compliance Program. As further discussed below, the USA PATRIOT Act requires financial institutions, including broker-dealers, by April 24, 2002, to establish and implement anti-money laundering compliance programs designed to ensure ongoing compliance with the requirements of the Bank Secrecy Act and the regulations promulgated thereunder. The proposed rule change prescribes the minimum standards required for each member firm's anti-money laundering program. The text of the proposed rule change is below. Proposed new language is in italics.

3011. Anti-Money Laundering Compliance Program

On or before April 24, 2002, each member shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, et seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each member organization's anti-money laundering program must be approved, in writing, by a member of senior management. The anti-money laundering programs required by this Rule shall, at a minimum,

(a) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(b) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(c) Provide for independent testing for compliance to be conducted by member personnel or by a qualified outside party;

(d) Designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program; and

(e) Provide ongoing training for appropriate personnel.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Introduction

The purpose of the proposed rule change is to establish minimum standards for the anti-money laundering programs that broker-dealers are required to develop and implement under section 352 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (''USA PATRIOT Act''). [3] The USA PATRIOT Act, which was signed into law by President Bush on October 26, 2001, is designed to deter and punish terrorists in the United States and abroad and to enhance law enforcement investigating tools by prescribing, among other things, new surveillance procedures, new immigration laws, and new and more stringent anti-money laundering laws.

Title III of the USA PATRIOT Act, referred to as the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 (''Money Laundering Act''), focuses on strengthening the anti-money laundering provisions put into place by earlier legislation, particularly with respect to crimes by foreign nationals and foreign financial institutions. The Money Laundering Act imposes certain obligations on broker-dealers through new anti-money laundering provisions and amendments to the Bank Secrecy Act (''BSA''). [4] Among other things, broker-dealers will have to implement anti-money laundering programs (as described below), prepare and file suspicious activity reports, and follow new know-your-customer procedures. Broker-dealers will be required to comply with these new obligations in addition to continuing to comply with existing BSA reporting and recordkeeping requirements. [5]

Anti-Money Laundering Programs

Section 352 of the Money Laundering Act requires all financial institutions, including broker-dealers, to develop and implement anti-money laundering compliance programs on or before April 24, 2002. Section 352 requires the compliance programs, at a minimum, to establish (1) the development of internal policies, procedures, and controls, (2) the designation of a compliance officer with responsibility for a firm's anti-money laundering program, (3) an ongoing employee training program, and (4) an independent audit function to test the effectiveness of the anti-money laundering compliance program. Section 352 further allows the Secretary of the Department of Treasury, at its discretion, to establish minimum standards for the anti-money laundering programs.

The legislative history of the USA PATRIOT Act explains that the requirement to have an anti-money laundering compliance program is not a ''one-size-fits-all'' requirement. The general nature of the requirements reflects Congress' intent that each financial institution should have the flexibility to tailor the anti-money laundering programs to fit its business, taking into account factors such as size, location, activities of the firm's business, and the risks or vulnerabilities to money laundering in the firm. This flexibility is designed to ensure that all entities covered by the statute, from the very large financial institutions to the small firms, have in place policies and procedures to monitor for anti-money laundering compliance. [6]

The proposed rule change, consistent with Section 352, would require member firms to implement anti-money laundering programs and would set

[3] Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107–56, 115 Stat. 272 (2001).

[4] 31 U.S.C. 5311, *et seq.*

[5] Rule 17a–8 under the Act requires broker-dealers to comply with the recordkeeping and reporting requirements of the BSA and related regulations, including the obligation to file reports and make and preserve records in connection with certain transactions generally exceeding $10,000 and involving currency or the physical transport of currency into or out of the United States. 17 CFR 240.17a–8.

[6] *See USA PATRIOT Act of 2001: Consideration of H.R. 3162 Before the Senate* (October 25, 2001) (statement of Sen. Sarbanes); *Financial Anti-Terrorism Act of 2001: Consideration Under Suspension of Rules of H.R. 3004 Before the House of Representatives* (October 17, 2001) (statement of Rep. Kelly) (provisions of the Financial Anti-Terrorism Act of 2001 were incorporated as Title III in the USA PATRIOT Act.).

forth minimum standards for such programs. The standards established by the proposed rule change are substantially equivalent to those found in the existing bank anti-money laundering program rules.[7] Consistent with the USA PATRIOT Act, the proposed rule change would require firms to develop and implement a written anti-money laundering compliance program by April 24, 2002. The program would need to be approved in writing by a member of senior management and be reasonably designed to achieve and monitor the member's ongoing compliance with the requirements of the BSA and the implementing regulations promulgated thereunder. The proposed rule change would require firms, at a minimum, to (1) establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of suspicious transactions, (2) establish and implement policies, procedures, and internal controls reasonably designed to assure compliance with the BSA and implementing regulations, (3) provide for independent testing for compliance to be conducted by member personnel or by a qualified outside party, (4) designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program, and (5) provide ongoing training for appropriate personnel.

Prior to implementation of the proposed rule change, NASD Regulation anticipates providing guidance in a *Notice to Members* to assist member firms in developing an anti-money laundering program that fits their business model and needs.[8]

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[9] which requires among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the proposed rule change is designed to accomplish these ends by establishing the minimum requirements for anti-money laundering compliance programs of member firms. These programs are designed to help identify and prevent money laundering abuses that can affect the integrity of the U.S. capital markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD–2002–24 and should be submitted by March 18, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–4345 Filed 2–22–02; 8:45 am]

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[7] *See e.g.,* 12 CFR 208.63.

[8] On February 12, 2002, the Securities Industry Association Anti-Money Laundering Committee released a *Preliminary Guidance for Deterring Money Laundering Activity*. In general, the guidance discusses key elements for a broker-dealer to consider in developing an effective anti-money laundering program.

[9] 15 U.S.C. 78o–3(b)(6).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45454; File No. SR–NYSE–2001–43]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the New York Stock Exchange, Inc. Amending Paragraph (1) of the Guidelines to Exchange Rule 105 to Permit Approved Persons of Specialists To Act as a Specialist With Respect To an Option on a Specialty Stock

February 15, 2002.

I. Introduction

On August 21, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') 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 amend paragraph (1) of the Guidelines to NYSE Rule 105 to permit an approved person of a specialist to act as a specialist or primary market maker with respect to an option on a stock in which the NYSE specialist is registered as such on the Exchange (''specialty stock''), provided that the requirements of the NYSE Rule 98 exemption program are met. The Exchange filed Amendment No. 1 to the proposed rule change on December 4, 2001.[3] The proposed rule change, as amended by Amendment No. 1, was published for comment in the **Federal Register** on December 12, 2001.[4] The Commission received two comment letters on the proposed rule change.[5] This order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated December 3, 2001 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 45136 (December 6, 2001), 66 FR 64328.

[5] *See* letters to Jonathan G. Katz, Secretary, Commission, from Edward J. Joyce, President and Chief Operating Officer, Chicago Board of Options Exchange, Inc. (''CBOE''), dated January 17, 2002

Continued

approves the proposed rule change, as amended.

II. Description of the Proposal

Currently, NYSE Rule 105 provides that an ''approved person'' (*i.e.,* an affiliate in a control relationship) of a NYSE specialist organization may trade options based on a specialty stock only for hedging purposes. If the approved person establishes a system of internal controls and information barriers pursuant to NYSE Rule 98, however, the approved person may engage in proprietary trading of options based on the specialist's specialty stock without being restricted solely to hedging transactions. In addition, pursuant to Guideline (1) to NYSE Rule 105, approved persons of NYSE specialists may act as competitive or non-primary market makers in options based on a specialty stock if NYSE-approved Rule 98 information barriers have been established. An approved person of a specialist may not, however, act as a specialist or primary market maker with respect to an option based on a specialty stock.

The Exchange now proposes to amend paragraph (1) of the Guidelines to NYSE Rule 105 to permit an approved person of a specialist to act as a specialist or primary market maker with respect to an option based on a specialty stock, provided that NYSE Rule 98 information barriers are established and approved by the Exchange.

III. Summary of Comments

The Commission received two comment letters on the proposed rule change.[6] Both commenters, CBOE and Knight, support the general objective of the proposed rule change, but disagree on whether an approved person's ability to act in a market making capacity with regards to options based on a specialty stock should be predicated on establishing Exchange-approved internal controls and information barriers under NYSE Rule 98.

CBOE supports the proposed rule change because it could: (1) enable CBOE's designated primary market makers (''DPMs'') to acquire more capital through combinations with broker-dealers that own NYSE specialists firms; and (2) enable NYSE specialists to become better capitalized through combinations with firms containing large options specialist firms. CBOE predicates its support for the proposed rule change upon the ''strict separation'' between the options specialist firm and the NYSE specialist firm. CBOE believes that this strict separation between the options specialist firm and the NYSE specialist firm should prevent side-by-side trading[7] in a stock and its overlying option.

Knight generally supports the proposed rule change and agrees with NYSE that ''consolidation within the securities industry makes it likely that large, well-capitalized, well-regulated organizations may seek to conduct distinct business operations among several affiliated entities.'' However, Knight does not believe that (1) information barriers between the NYSE specialist and its approved person regarding trading and position information; (2) the separation of each entity's daily business activities with its own staff; and (3) trade decisions independent of the other entity should be preconditions for an approved person to act in a primary market maker capacity on options based on the specialist's specialty stock. Instead, Knight believes that communication between separate but affiliated business units engaged in both stock and option market making would grant a firm the ability to better risk manage its inventory and thus enable the firms to make deeper and more liquid markets. Further, Knight believes that the NYSE and the five national options exchanges are equipped with the necessary regulatory processes to monitor for any potential wrongdoing that could result from an entity's market making in a stock and its option.

IV. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.

Last year, the Commission approved an NYSE proposal to permit NYSE specialists to act as competitive or non-primary market makers in options based on the NYSE specialist's specialty stock so long as NYSE Rule 98 information barriers were established and approved.[10] In that order, the Commission noted the regulatory concerns that arise with integrated market making. Specifically, the Commission noted that integrated market making raises the concern that an integrated entity could unfairly use non-public market information to its advantage, or that an integrated entity could easily engage in improper conduct, such as manipulating the price of either the stock or the option to create unfair advantages that would be hard, if not impossible, to surveil.[11] Further, the Commission noted concerns about the potential conflicts of interest that may arise when an integrated entity has an obligation to make markets in both an option and its underlying equity. Finally, the Commission noted its concern about an exchange's ability to effectively surveil the trading practices of integrated entities.

When considering an integration proposal, the Commission must balance the potential improvements in the quality of the markets for the stocks and their related options against the competitive, regulatory, and surveillance concerns.[12] In this regard, the Commission must consider whether an integrated market making proposal would permit the integrated entities to possess undetectable, material non-public market information, which could give either the stock specialist or the related options specialist or market maker a trading advantage over other market participants. Thus, the Commission must evaluate the extent of the proposed integration, as well as the characteristics of the market center putting forth the proposal.

In the present proposed rule change, the Exchange seeks to permit its

(''CBOE Letter''); and Mathew D. Wayne, Chief Legal Officer, Knight Financial Products LLC (''Knight''), dated December 21, 2001 (''Knight Letter'').

[6] *Id.*

[7] The Commission notes that side-by-side trading generally refers to the practice of trading an equity security and its related option at the same physical location. The proposed rule change also implicates the practice of integrated market making, which refers to the practice of the same person or firm making markets in an equity security and its related options.

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] Securities Exchange Act Release No. 44175 (April 11, 2001), 66 FR 19825 (April 17, 2001).

[11] Previously, Commission staff has noted that substantial profits could be made from options positions as a result of small movements in the price of the underlying stock. Further, the staff has noted the relative ease by which the price of the underlying security could be moved and the difficulty in detecting improprieties associated with small price movements. SEC, Report of the Special Study of the Options Markets, H.R. Rep. No. IFC 3, 96th Cong. 1st sess. (Comm. Print 1978) (''Options Study'').

[12] See Options Study, *supra* note 11. *See also* Securities Exchange Act Release No. 22026 (May 8, 1985), 50 FR 20310 (May 15, 1985).

specialists to be affiliated with specialists and market makers that act as such with regards to options based on the NYSE specialist's specialty stock. The NYSE's proposal seeks to permit a more extensive form of integrated market making. The NYSE, however, seeks to limit the concerns raised by integrated market making by requiring the affiliated entities to establish strict information barriers designed to prevent the flow of non-public information. These information barriers must be approved by the NYSE and are subject to annual review by the NYSE.

Specifically, the related entities must organize their respective operations in such a way that the activities of each entity are clearly separate and distinct. The Guidelines to Exchange Rule 98 set forth the requirements to be followed by the related entities to be considered clearly separate and distinct. For example, Guideline (b)(i) requires organizational separation of the specialist and approved person and that the specialist must function as an entirely freestanding entity responsible for its own trading decisions. Guideline (b)(ii) requires the respective management structures of the specialist and the approved person to be organized in such a manner as to prevent the management of the approved person from exerting any influence on particular trading decision of the specialist. Guidelines (b)(iii) and (b)(iv) require the establishment of procedures to preserve confidentiality of trading information. In addition, Guideline (b)(iii) specifically requires the establishment of procedures to ensure the confidentiality of the specialist's book. Finally, the Guidelines require that the specialist and approved person maintain, among other things, separate books and records, financial accounting and capital requirements.

The Commission believes that the Exchange has established appropriate procedures in the Guidelines to address the regulatory issues raised by the proposed rule change. The requirement of clearly separate and distinct organizations, along with the other informational barriers and restrictions, should prevent Exchange specialists and their related options market makers from sharing restricted, non-public market information. Further, NYSE Rule 98 requires the Exchange to review and approve the organizational structure and information barriers of the integrated entities. The Commission notes that the Exchange has had extensive experience reviewing its Rule 98's organizational requirements and information barriers and thus should be able to ensure that the integrated entities do not improperly use their affiliations to their advantage. In addition, the Exchange has verified that organizational separation and information barriers must be established and maintained between an Exchange specialist, any approved person of the specialist that acts as a market maker in an option based on the specialist's specialty stock, and any other persons affiliated with them.[13]

The Commission continues to expect the Exchange to assess, as it gains experience with integrated market making, whether any other informational barriers are necessary to prevent the flow of market information between the related entities. Of course, any new information barriers proposed would have to be submitted to the Commission for approval. The Commission also expects that the Exchange will continue to surveil the integrated entities to ensure that the information barriers and organizational structure continue to prevent the flow of non-public market information.

In the previous order, the Commission noted that because the NYSE is the primary market for many equity securities underlying options, concerns were raised about an integrated organization being able to dominate the markets of both the specialty stock and its related options. Specifically, an integrated entity may by virtue of its positions as specialists in a stock and its related options could control the pricing and liquidity of both markets. The Commission believes the requirement that the related entities maintain complete organizational separation and prohibit the sharing of market information should prevent either entity from using its affiliation to control the pricing and liquidity of either market.

The Commission believes that the proposal should provide benefits to the markets. For example, the number of entities that may act as specialists or primary market makers in options based on a specialist's specialty stock may increase as a result of this proposal. Now, entities that have been prohibited from acting as primary options market makers because of the restrictions in Paragraph (1) of NYSE Rule 105 would be permitted to act in this capacity. This could lead to increased competition and liquidity in the options market.

In conclusion, the Commission believes that the Exchange has sufficiently minimized the potential for manipulative and improper trading conduct by requiring strict organizational separation and information barriers. Therefore, the Commission believes that the potential improvements to liquidity and quality of the markets outweigh the potential regulatory concerns.

For these reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act.[14]

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NYSE–2001–43), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

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[13] A specialist may be associated with more than one approved person. For example, a specialist may be controlled by a parent organization, which may also control other organizations. If any other organization controlled by the parent acts as a specialist or engages in market making activities in options based on the specialist's specialty stock, organizational separation and information barriers would have to be established between all entities, *i.e.,* the specialist, the parent company and the related options market making entities. *See* Securities Exchange Act Release No. 44175 (April 11, 2001), 66 FR 19825, 19827, n. 14 (April 17, 2001).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27492]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

February 15, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by

March 12, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After March 12, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

SCANA Corporation, et al.

[70–9521]

SCANA Corporation (''SCANA''), a registered holding company, and South Carolina Electric & Gas Company (''SCE&G''), one of its public-utility company subsidiaries, both at 1426 Main Street, Columbia, South Carolina 29201, have filed a post-effective amendment to a previously submitted application-declaration (''Prior Application'') under section 11(b)(1) of the Act.

By order dated February 9, 2000,[1] the Commission authorized SCANA, then a public-utility holding company claiming an exemption from registration under section 3(a)(1) of Act, to acquire Public Service Company of North Carolina, Incorporated, a gas public-utility company operating in North Carolina. In the Prior Order, the Commission allowed SCANA to retain all of the combined company's nonutility operations except for a bus transit system (''Bus Service'') being operated in South Carolina by SCE&G and a forty-nine percent membership interest in Palmetto Lyme, LLC, a company engaged in the sale of lime.[2] SCANA conceded that retention of the Bus Service would not be consistent with the standards of section 11(b)(1) of the Act, and proposed to divest it.

On February 24, 2000, the City of Columbia, South Carolina (''City'') filed a Petition for Clarification or Review of the Prior Order (''Petition''). In the Petition, and its subsequently filed pleadings, the City questions only the Commission's decision to require the divestiture of the Bus System. Specifically, the City contends that SCANA is required under South Carolina law to operate the Bus System and that the Bus Service serves important State and/or community interests.

In its post-effective amendment, SCANA states that it has been negotiating for the City to take over the Bus System. The company states that an agreement has been reached regarding the basic terms for the transfer, and they are as follows:

- The City will discharge SCE&G's obligation to provide a public transit system in Columbia, South Carolina, and the assets of the Bus System will be transferred to the City;
- SCE&G and the City will enter into a thirty-year electric and gas franchise;
- SCE&G will pay the City for the franchise an initial fee of $15 million in four quarterly installments beginning at the time of the transfer of the Bus System and an additional annual fee of $2.47 million for the first seven years of the franchise;
- SCE&G will convey 6.98 acres of property currently used in connection with the transit system as a parking facility for the buses, in a condition compliant with current state and federal regulations;
- SCE&G will convey the historic Columbia Canal and Hydroelectric Plant (''Plant'') to the City, and enter into collateral agreements regarding the Plant; and
- SCE&G and the City will enter into a new water contract for withdrawals from Lake Murray for the terms of the electric and gas franchise.

SCANA requests that the Commission grant the company a one-year extension of time to divest the Bus System. The company states that this additional time is necessary to allow: (1) the City to complete due diligence regarding the transaction; (2) final agreements to be executed by SCANA, SCE&G, and the City; and (3) SCANA to obtain the necessary state and federal approvals.

Progress Energy Inc., et al.

[70–9909]

Progress Energy Inc. (''Progress''), a registered holding company, Carolina Power & Light Company (''CP&L'') and North Carolina Natural Gas Corporation (''NCNG''), both public utility subsidiaries of Progress, all located at 410 South Wilmington Street, Raleigh, North Carolina 27602, and Florida Power Corporation (''Florida Power''), a utility subsidiary of Progress, One Progress Plaza, St. Petersburg, Florida 33701 (collectively, ''Applicants''), have filed a post effective amendment (''Amendment'') under sections 6(a), 7, and 12(b) of the Act and rules 45, 53 and 54 under the Act to an application-declaration previously filed.

Progress requests authority to modify existing financing orders to: (1) Increase from $5 billion to $7.5 billion the aggregate amount of common stock, preferred stock or other forms of preferred securities and unsecured long-term debentures having maturities of up to 50 years (collectively, ''Long-term Securities'') that Progress may issue and have outstanding at any time through September 30, 2003 (''Authorization Period''); (2) eliminate a $6 billion overall limit for the aggregate principal amount that Progress may have outstanding at any time for short-term debt, debentures, and indebtedness incurred by Progress to finance its acquisition of the issued and outstanding common stock of Florida Progress (''Acquisition Debt'') (collectively, ''Overall Indebtedness Limit'') (short-term debt will remain limited by $2.5 billion as authorized in the Financing Orders, acquisition debt will remain $3.5 billion, and debentures will be included in the $7.5 billion limit for Long-term Securities requested in this Amendment); and (3) increase from $750 million to $2 billion the principal or stated amount of guarantees that Progress may provide at any one time with respect to the obligations of its subsidiaries.

By previous orders dated December 12, 2000 and September 20, 2001 (HCAR Nos. 27297 and 27440, respectively) (''Financing Orders''), Progress, its direct and indirect nonutility subsidiaries, and its utility subsidiaries, which are CP&L, NCNG, and Florida Power, (collectively, ''Utility Subsidiaries''), are authorized to engage in a program of external financing and intrasystem financing, to organize and acquire the equity securities of specified types of new subsidiaries, to pay dividends out of capital or unearned surplus, and to engage in other related financial and structural transactions from time to time through the Authorization Period. Except for the modifications described above, Applicants do not seek any other changes or modifications to the terms, conditions or limitations applicable under the Financing Orders.

Progress states that it will maintain common equity as a percentage of consolidated capitalization (inclusive of short-term debt) at 30% or above during the Authorization Period. Accordingly, Progress will not issue any securities unless, on a *pro forma* basis to take into account the issuance of such securities and the application of proceeds, common equity as a percentage of consolidated capitalization will remain at or above 30%. In addition, Progress will maintain common equity as a

[1] HCAR No. 27133 (''Prior Order'').

[2] The Commission reserved jurisdiction over the retention of Palmetto, pending completion of the record. *See* Prior Order.

percentage of capitalization of each of its three Utility Subsidiaries at 30% or above during the Authorization Period.

As of September 30, 2001, Progress's consolidated capitalization (on a *pro forma* basis in order to take into account the issuance of long-term debt securities after September 30, 2001) consisted of 38.0% common equity, 0.6% preferred stock, 56.6% long-term debt and 4.8% short-term debt. As of September 30, 2001, common equity as a percentage of capitalization of CP&L, Florida Power and NCNG was equal to 45.5%, 55.3% and 68.6%, respectively.

Progress states that the increase in Long-term Securities is needed because it had as of November 30, 2001, issued a total of $4,534,800,000 of long-term securities ($528,100,000 of common stock and $4,006,700,000 of long-term debt, including $3,200,000,000 of term notes issued to refinance debt incurred by Progress in connection with the acquisition of Florida Progress). Progress contemplates the need to issue additional Long-Term Securities during the remainder of the Authorization Period to retire short-term debt, to fund capital programs of its subsidiaries, to finance investments in new nonutility ventures (including, in particular, exempt wholesale generators (''EWGs'') that are under development or planned), and for other general corporate purposes. Progress forecasts the need for additional long-term financing of at least $1.75 billion through the end of 2003.

Alabama Power Company, et al.

[70–10009]

Alabama Power Company (''Alabama''), 600 North 18th Street, Birmingham, Alabama 35291, Georgia Power Company (''Georgia''), 241 Ralph McGill Boulevard, N.E., Atlanta, Georgia 30308, Gulf Power Company (''Gulf''), One Energy Place, Pensacola, Florida 32520, Mississippi Power Company (''Mississippi''), 2992 West Beach, Gulfport, Mississippi 39501, and Savannah Electric and Power Company (''Savannah''), 600 East Bay Street, Savannah, Georgia 31401 (collectively, ''Applicants''), all wholly owned direct public-utility subsidiary companies of The Southern Company, a registered holding company, have filed an application with the Commission under sections 9(a) and 10 of the Act.

Previously, Applicants acquired, through purchases and leases, coal hopper railroad cars for use in transporting coal in dedicated unit train service to the respective company's coal-fired generating plants.[3] These railcars were acquired for Applicants' use based upon their anticipated coal needs. Applicants state that, at any given time, an Applicant may have a need for a lesser or greater number of railcars than is currently available, and that during surplus periods it may be desirable and economically advantageous to lease or sublease excess railcars to nonaffiliates.

Applicants request authority, through December 31, 2007, to lease or sublease to nonaffiliates, railcars that are not needed to transport their fuel. All of the proposed leases or subleases would be at market rates for a duration of one year or less and give the respective Applicant the right of termination, upon reasonable notice, permitting the return of the cars to customer service, if necessary. No more than 2,500 railcars would be leased or subleased at any one time.

Revenues realized from the proposed transactions would be credited against the respective Applicant's costs as owner or lessee (as applicable) of the railcars, and reflected accordingly in its ratemaking provisions, except to the extent the regulatory authority having jurisdiction over the matter authorizes a different treatment.

PNM Resources Inc.

[70–10043]

PNM Resources, Inc. (''PNM Resources''), a public utility holding company exempt under section 3(a)(1) by rule 2 and its wholly owned public utility subsidiary company, Public Service Company of New Mexico (''PNM'') (collectively, ''Applicants'') both located at Alvarado Square, Albuquerque, NM 87158, request authority under sections 9(a)(2) and 10 of the Act to acquire the voting securities of DCC Project Finance Two, Inc. (''DCC Project Finance'')[4] from Dana Commercial Credit Corporation (''DCCC'').[5] PNM Resources states that it will continue to claim an exemption under section 3(a)(1) by rule 2.

DCC Project Finance, a Delaware corporation, is a single purpose entity (''SPE'') and has a 60% beneficial ownership interest in the Eastern Interconnection Project (''EIP''). The EIP consists of a 216 mile, 345 kV transmission line between PNM's bulk power switching station north of Bernalillo, New Mexico and a high voltage DC converter station, called the Blackwater Station, located in the Clovis-Portales area of eastern New Mexico, plus associated switching equipment and the Blackwater Station DC converter facilities. The EIP was constructed in 1984–1985 to interconnect PNM's transmission system to that of Southwestern Public Service Company (''SPS''). As of February 5, 1985, the EIP had an appraised fair market value of not less than $73,000,000.

PNM is party (''Lessee'') to a leveraged lease transaction under which it leases a 60% undivided interest in EIP from DCC Project Finance (''Lessor''). Applicants are exercising their rights to purchase under the lease, as stated in section 14 of the amended and restated lease as of September 1, 1993:

(a) Unless a Default or Event of Default shall have occurred and be continuing, the Lessee shall have the right to exercise one of the following options to purchase the Undivided Interest:

(1) On the date of expiration of the Basic Term, the Fixed Rent Renewal Term or any then applicable Fair Market Renewal Term, the Lessee shall have the right upon not less than two years' prior written notice, to purchase the Undivided Interest on the date of expiration of such Term at a purchase price equal to the Fair Market Value thereof; or

(2) On the Basic Rent Payment Date designated in a written notice given at least two years prior to such Basic Rent Payment Date (which date may only be a Basic Rent Payment Date during the Basic Term occurring on or after the thirtieth Basic Rent Payment Date), at a purchase price equal to the greater of the Early Purchase Value applicable on the date of purchase and the Fair Market Value of the Undivided Interest on such

[3] Currently, Alabama has approximately 4,300 railcars that transport coal to two of its plants. Georgia has approximately 4,400 railcars that transport coal to nine of its plants. Gulf does not have any railcars, but Mississippi has leased 800 railcars on behalf of itself and Gulf that transport coal to Plant Daniel, which is owned by Mississippi and Gulf as tenants in common. Mississippi has approximately 1,000 railcars that transport coal to two of its plants. Savannah has approximately ninety-four railcars that transport coal to one of its plants.

[4] Prior to this proposed transaction, DCC Project Finance has claimed the exclusion under rule 7(d)(1)(ii) promulgated under the Act because all of the equity interest in the DCC Project Finance is owned by a company, DCCC, that is otherwise primarily engaged in one or more businesses other than the business of a public utility company.

[5] Dana Commercial Credit Corporation's Annual Report for the year 2000 states that Dana Commercial Credit Corporation, a Delaware corporation, is a subsidiary of Dana Corporation, one of the world's largest suppliers to vehicle manufacturers and their related aftermarkets. DCCC, either directly or through subsidiary companies, is primarily engaged in one or more businesses other than the business of a public utility company. DCC Project Finance is a direct, wholly owned subsidiary of DCCC. DCCC owns all of the issued and outstanding capital stock of DCC Project Finance.

date, plus an amount equal to the sum of any Basic Rent then owing and any premium due on prepayment of the Notes.

Under a purchase agreement between DCCC [6] and PNM dated as of January 15, 2002 (''Purchase Agreement''), the Applicants will purchase 100% of the issued and outstanding common stock of DCCC Project Finance (''Subject Stock''), to be renamed PNM Project Finance Two, Inc., immediately upon consummation of the transaction. The Applicants will purchase the Subject Stock from DCCC for $5,672,000.[7]

PNM Resources states that it will maintains its qualification for a section 3(a)(1) exemption by rule 2. PNM is an integrated public utility primarily engaged in the generation, transmission, distribution and sale of electricity and in the transmission, distribution and sale of natural gas within the State of New Mexico, will continue to be a wholly owned subsidiary of PNM Resources. PNM Project Finance Two (previously DCC Project Finance), a Delaware corporation, will be a wholly owned subsidiary of PNM. PNM Resources states that it will not derive, directly or indirectly, any material part of its income from PNM Project Finance (in any event, the gross revenues derived from PNM Project Finance will not exceed $200,000). PNM Resources does not own directly any utility properties or perform any utility operations.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–4343 Filed 2–22–02; 8:45 am]

BILLING CODE 8010–01–P

[6] The institutional equity investor, DCCC is the sole beneficiary of the grantor trust which holds legal title to the 60% interest and leases the interest to PNM. The DCCC maintains its investment in the leased assets through a wholly owned, single-purpose Delaware corporation DCC Finance Project.

[7] If the closing date shall occur after February 28, 2002, interest on the cash payment of $5,672,000 will be computed at the lower of DCCC's 60-day funding cost or 5% per annum for the actual number of days elapsed from, but excluding January 15, 2002, to and including the closing date. Such interest (if due) shall be an upward adjustment the cash purchase price. No other pricing adjustment is applicable to the purchase or sale of the Subject Stock.

SMALL BUSINESS ADMINISTRATION

Federal Assistance to Provide Financial Counseling, Technical Assistance and Long-term Training to Women in the State of Vermont

AGENCY: U.S. Small Business Administration.

ACTION: Program Announcement No. OWBO–99–012, as amended by OWBO–2000–015.

SUMMARY: The Small Business Administration (SBA) plans to issue program announcement No. OWBO–99–012, as amended by OWBO–2000–15, to invite applications from private, not-for-profit organizations to conduct a Women's Business Center (WBC) project in the State of Vermont. The authorizing legislation is the Small Business Act, Section 29, 15 U.S.C. 631(h) and 656. The selection process is competitive. The successful applicant's WBC project will serve as a replacement for a previous project in the State of Vermont that ended after its 2nd year. The replacement WBC is to carry out a project for the remaining 3 years of a 5-year term.

The Women's Business Center project must provide long-term training, counseling and technical assistance to women who are in and starting businesses. Service and assistance areas must include financial, management, marketing, government procurement and loan packaging. The applicant must submit a plan for each remaining year of the project term, *i.e.*, 7/01/02–06/30/03; 07/01/03–06/30/04; and 07/01/04–06/30/05. The applicant's proposal must include a scope of work and a budget not exceeding the Federal grant amount of $150,000 plus 100% match. Also, the proposal must include a plan to target women who are socially and economically challenged and a plan to contribute content and services to the SBA Online Women's Business Center web site at *www.onlinewbc.gov.*

SBA will issue an annual award to the successful recipient for each project year, without re-competition. The award recipient must provide non-Federal matching funds at 100%, *i.e.*, one non-Federal dollar for each Federal dollar. At least half of the non-Federal match must be in cash. The remainder may be in the form of in-kind contributions.

DATES: SBA will mail program announcements to interested parties immediately, upon request. The opening date will be March 5, 2002 and the closing date will be April 11, 2002.

FOR FURTHER INFORMATION CONTACT: Denise Edmonds at (202) 205–6673 or *denise.edmonds@sba.gov.*

Wilma Goldstein,

Assistant Administrator, SBA/Office of Women's Business Ownership.

[FR Doc. 02–4352 Filed 2–22–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 3920]

Extension of the Restriction on the Use of United States Passports for Travel To, In or Through Iraq

On February 1, 1991, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73(a)(2) and (a)(3), all United States passports, with certain exceptions, were declared invalid for travel to, in, or through Iraq unless specifically validated for such travel. The restriction was originally imposed because armed hostilities then were taking place in Iraq and Kuwait, and because there was an imminent danger to the safety of United States travelers to Iraq. American citizens then residing in Iraq and American professional reporters and journalists on assignment there were exempted from the restriction on the ground that such exemptions were in the national interest. The restriction has been extended for additional one-year periods since then, and was last extended through February 28, 2002.

Conditions in Iraq remain hazardous for Americans. Iraq continues to refuse to comply with UN Security Council resolutions to fully declare and destroy its weapons of mass destruction and missiles while mounting a virulent public campaign in which the United States is blamed for maintenance of U.N. sanctions. The United Nations has withdrawn all U.S. citizen UN humanitarian workers from Iraq because of the Government of Iraq's stated inability to protect their safety. Iraq regularly fires anti-aircraft artillery and surface-to-air missiles at U.S. and coalition aircraft patrolling the no-fly zones over northern and southern Iraq, and regularly illuminates U.S. and coalition aircraft with target-acquisition radar.

U.S. citizens and other foreigners working inside Kuwait near the Iraqi borders have been detained by Iraqi authorities in the past and sentenced to lengthy jail terms for alleged illegal entry into the country. Although our

interests are represented by the Embassy of Poland in Baghdad, its ability to obtain consular access to detained U.S. citizens and to perform emergency services is constrained by Iraqi unwillingness to cooperate. In light of these circumstances, and pursuant to the authorities set forth in 22 U.S.C. 211a, Executive Order 11295, and 22 CFR 51.73, I have determined that Iraq continues to be a country ''where there is imminent danger to the public health or physical safety of United States travelers''.

Accordingly, United States passports shall continue to be invalid for travel to, or for use in, Iraq unless specifically validated for such travel under the authority of the Secretary of State. The proposed extension will continue to exclude from its coverage persons resident in Iraq since February 1, 1991, and professional journalists. In the absence of the exclusion, those journalists and long-time residents would have to apply for specific validations; we would expect to grant any such requests, and therefore see no reason to revisit the exclusion.

The Public Notice shall be effective from the date it is published in the **Federal Register** and shall expire at midnight on February 28, 2003, unless sooner extended or revoked by Public Notice.

Dated: February 13, 2002.

Colin L. Powell,

Secretary of State, Department of State.

[FR Doc. 02–4419 Filed 2–22–02; 8:45 am]

BILLING CODE 4710–10–P

TENNESSEE VALLEY AUTHORITY

Programmatic Environmental Impact Statement on Reservoir Operating Policies

AGENCY: Tennessee Valley Authority.

ACTION: Notice of Intent.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500 to 1508) and the Tennessee Valley Authority (TVA) procedures implementing the National Environmental Policy Act. In response to recommendations from its citizen advisory group, the Regional Resource Stewardship Council, and other individuals and stakeholder groups, TVA is conducting a comprehensive reservoir operations study (ROS). The purpose of the ROS is to determine if changes in TVA's reservoir operating policies would produce greater overall public value. As part of the study, TVA will prepare a programmatic environmental impact statement (EIS). TVA will use the EIS process to elicit and prioritize the values and concerns of stakeholders; identify issues, trends, events, and tradeoffs affecting reservoir operating policies; formulate, evaluate, and compare alternative reservoir operating policies; provide opportunities for public review and comment; and ensure that any decision to change its operating policies reflect a full range of stakeholder input. Public comments are invited concerning both the scope of the environmental issues and the alternative operating policies that should be addressed in the EIS.

DATES: Comments on the scope of the issues and alternatives to be addressed in the EIS must be postmarked or e-mailed by April 26, 2002.

TO COMMENT ON THE STUDY OR FOR FURTHER INFORMATION CONTACT: David Nye, ROS Project Manager, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11A, Knoxville, Tennessee 37902–1499; call the TVA ROS EIS toll free number (1–888–882–7675); fax to 865–632–3146; or access the TVA web site at *www.tva.com.*

SUPPLEMENTARY INFORMATION:

Background

A wholly owned corporation of the U.S. Government, TVA was established by an act of Congress in 1933 to foster the social and economic welfare of the people of the Tennessee Valley region and to promote the wise use and development of the region's natural resources. Section 9a of the TVA Act provides the historical and legal context for TVA's reservoir operating policies. Added by Congress as an amendment in 1935, Section 9a directs TVA to manage the reservoir system primarily to promote navigation and control floods and, to the extent consistent with these purposes, for the generation of electricity.

In carrying out its mandate, TVA developed an integrated system that includes 49 dams and reservoirs; 48 of which were built on the Tennessee River and its tributaries and one, Great Falls, is located on a tributary of the Cumberland River. The dams and reservoirs, also referred to as projects, differ in age, size, and specific authorized purposes. Based on the authorized purpose(s), TVA dams and reservoirs fall into one of four groups: (1) Multipurpose tributary projects which provide seasonal stream flow regulation for flood control, navigation, and hydroelectric power generation; (2) multipurpose main Tennessee and Clinch River projects pass rainfall runoff, generate electric power, and maintain minimum levels for commercial navigation; (3) single purpose power projects which generate hydroelectric power; and (4) smaller non-power projects which provide local flood relief, water supply, water quality, and/or recreation.

The drainage area of the Tennessee River system covers about 41,000 square miles. This area includes 125 counties within much of Tennessee and parts of six other states: Alabama, Kentucky, Georgia, Mississippi, North Carolina, and Virginia. The larger TVA Power Service Area includes 201 counties and about 80,000 square mile in the same seven states.

TVA manages the reservoir system, which includes 14 navigation locks operated by the U.S. Army Corps of Engineers, to provide an 800-mile commercial navigation channel from the mouth of the Tennessee River at Paducah, Kentucky, to the headwaters of the Tennessee River at Knoxville, Tennessee, and downstream parts of the Clinch and Hiwassee Rivers. TVA maintains water levels sufficient to provide a minimum navigation channel depth of nine feet (with a two-foot overdraft) throughout this navigable waterway.

Thirteen multipurpose tributary projects, built to reduce the risk of flood damage along the river, are operated to regulate flood crests and store runoff for later hydroelectric generation. Powerhouses were built at 30 TVA dams, including its Raccoon Mountain Pumped-Storage Facility, which now provides approximately 5,000 megawatts of hydro generation capacity. Although the powerhouses were initially built to provide base-load capacity, the demand for power in the Tennessee Valley exceeded the hydropower capacity of the reservoir system during the 1950s. As fossil and nuclear base-load generating sources were added, operation of the hydro system was modified to take advantage of the versatility and dependability of hydropower to meet peak power demands and improve power system reliability. Today, depending on annual rainfall and runoff, the hydro system produces 10 to 15 percent of TVA's annual average system generation output.

The annual rainfall and runoff patterns in the Tennessee Valley govern the operation of the reservoir system. Operating guides, developed from long-term stream-flow records and project requirements and constraints, identify water levels that should be met in each reservoir at various times during the

year. December through early April is the major flood season in the Tennessee Valley because storms tend to be larger and more runoff occurs during this part of the year. During this period, TVA tributary reservoirs are lowered to a minimum level to provide storage capacity that reduces the risk of flooding at major damage centers, including Chattanooga, Tennessee, and other communities along the Tennessee River and its tributaries while allowing for hydroelectric power production during periods of peak power demand. Beginning in April, when flood risks typically diminish, tributary reservoirs are allowed to fill to reach their summer recreation level by June 1. During June and July, drawdown of the tributary reservoirs is limited to maintaining downstream minimum flows, navigation channel depths, hydro power generation, cooling water for fossil and nuclear plants, and recreational benefits. Between August 1 and January 1, the reservoirs are drawn down to flood storage capacity levels based on the economic use of the water to meet power generation and water quality objectives.

In addition to the main objectives, TVA operates the dams and reservoirs as a truly integrated system for the benefit of the Valley to provide for such purposes as mosquito control, aquatic plant management, water quality, recreation, fish and wildlife habitat, municipal and industrial water supply, commercial and industrial development, and flows for power plant cooling.

TVA evaluated its reservoir operating policies in the late 1980s and, in February 1991, the TVA Board approved the *Tennessee River and Reservoir System Operation and Planning Review EIS*. Policy changes recommended in that EIS focused primarily on restricting lake level drawdown at multipurpose tributary projects to increase recreation opportunities and setting targets to improve water quality. The scope of the ROS EIS presently in progress will be more comprehensive in its approach and will evaluate all aspects of TVA's reservoir operating policies. The ROS EIS will identify and address alternative ways TVA could operate the reservoir system to use the available water in ways which would create greater value for stakeholders. Consistent with the recommendations of the Regional Resource Stewardship Council and other groups and individuals, the objectives of this study include but are not limited to:

- Clarify the values stakeholders have about the river and reservoir system;
- Identify key measures for judging future reservoir operating performance;
- Identify issues, trends, events, and tradeoffs which should be considered in formulating alternative reservoir operating policies;
- Develop clear reservoir operating policy alternatives not constrained by present operating policies;
- Provide factual information on the environmental, social, and economic effects of those alternatives; and
- Provide opportunities for stakeholders to actively participate in the process.

Preliminary Identification of Issues to Be Addressed

Based on internal and interagency discussions, TVA anticipates that the major issues to be addressed in the ROS EIS will be navigation, flood risk, power production, water quality, water supply, threatened and endangered species, wetlands, adjacent land use, recreation, and social and economic considerations. Issues related to air quality, climate, geology, groundwater, aquatic plants, invasive species, vector control, and terrestrial ecology also will be addressed; however, it is expected that these latter issues may not require detailed evaluation. This list of issues is preliminary and is intended to facilitate public comment on the scope of this EIS. It is not intended to be all-inclusive nor does it imply any predetermination of potential impacts. TVA invites suggestions concerning the list of issues which should be addressed.

The Proposed Action

The proposed action is to implement reservoir operation policies that create greater overall public value.

Alternatives

As required by CEQ regulations (40 CFR 1502.2(e)), TVA will evaluate a reasonable range of alternatives, including the present operating policies as a No Action Alternative. Alternatives will address TVA's major reservoir operating objectives—the purposes for which TVA manages the river and reservoir system. These include navigation, flood risk reduction, power production, water quality, water supply, recreation, and economic development. At this time, alternative reservoir operating policies are likely to include increasing or decreasing seasonal reservoir pool levels depending on hydrology and project constraints, and increasing or decreasing the timing and amount of releases from the reservoirs. For example, alternatives might include: (1) Extending or shortening drawdown dates for tributary projects to provide higher or lower reservoir pool levels, (2) increasing or decreasing the amount and duration of releases from TVA dams to provide increased minimum flows, (3) increasing or decreasing the depth of the commercial navigation channel, and (4) increasing or decreasing the amount of water in reservoir storage potentially affecting flood risk.

Water quality, flood risk, and weekly scheduling models of the reservoir system will be used to determine the flexibility of present reservoir operations and to maximize operating objectives with a minimum of constraints. Model results will be used to bracket the potential effects of the alternative operating policies evaluated in the EIS. The EIS will also present a review of the changes made in 1991, when the last evaluation of TVA's reservoir operating policies was conducted. That part of the study will provide a baseline for evaluating impacts of the alternatives selected for detailed analysis in this EIS. The results of the evaluation of specific alternatives on environmental, cultural, and socioeconomic resources, together with engineering and economic considerations, will be used to select a preferred alternative operating policy.

Scoping Process

CEQ regulations (40 CFR 1501.7) require the use of an early and open process for determining the scope of an EIS and for identifying the significant issues related to the proposed action. Scoping is integral to the EIS process. It is a procedure that solicits public input to ensure that: (1) All pertinent issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft EIS is thorough and balanced; and (4) delays caused by an inadequate EIS are avoided. To ensure that the full range of issues and alternatives related to this proposal are addressed, TVA invites Federal agencies, state and local governments, the general public, and others to comment on the scope of the ROS EIS. In addition to the Regional Resource Stewardship Council, TVA will also rely on individuals in a public review group and an interagency team, as well as selected external subject matter experts, for input to the study. Agencies invited to participate as part of the interagency team include U.S. Army Corps of Engineers; U.S. Fish and Wildlife Service; U.S. Forest Service; U.S. Coast Guard, National Weather Service, National Park Service, Native American Tribal representatives, a representative from each of the Valley states; and others.

TVA will hold 21 public information meetings about the ROS EIS at locations throughout the region between March 21 and April 18, 2002. The dates and locations of the information meetings will be posted on the ROS EIS web site (www.tva.com) and published in local and regional newspapers. Notices about these meetings will also be sent directly to members of the public who have previously indicated an interest in TVA's reservoir operating policy through attendance at public meetings and through correspondence with Congress and TVA. TVA will continue to develop and maintain a mailing list of individuals, agencies, organizations, and groups who have requested notices and updates of the ROS process. TVA will also maintain a public reference file at selected libraries across the region, which will include copies of all written correspondence, documents, meeting notices, agendas, and summaries.

After consideration of the comments received during this scoping period, TVA will develop and distribute a document which will summarize public and agency comments that were received, the issues and alternatives to be addressed in the EIS, and the schedule for completing the EIS process. The scoping document should be available in late spring 2002. It will be distributed to public libraries, loaded on the TVA EIS web site, and mailed out upon request.

After evaluating the issues and the potential environmental consequences of each alternative, TVA will issue a draft EIS for public review and comment. The draft EIS will be transmitted to the Environmental Protection Agency for publication of a Notice of Availability in the **Federal Register**. TVA will solicit written comments on the draft EIS and hold a series of public information meetings to receive comments. TVA plans to issue the draft EIS in spring 2003.

Dated: February 15, 2002.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment.

[FR Doc. 02–4320 Filed 2–22–02; 8:45 am]

BILLING CODE 8120–08–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Procedures for Compensation of Air Carriers

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended), this notice announces the Department of Transportation's (DOT) intention to request the extension of a previously approved collection.

DATES: Comments on this notice must be received April 26, 2002.

ADDRESSES: Comments should be directed to the Competition and Policy Analysis Division (X–55), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Jack Schmidt, Competition and Policy Analysis Division (X–55), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–5420.

SUPPLEMENTARY INFORMATION:

Title: Procedures For Compensation of Air Carriers.

OMB Control Number: 2105–0546.

Type of Request: Authority for the currently approved data collection expires on February 28, 2002. By this notice, the Department is requesting an extension until February 28, 2003.

Abstract: As a consequence of the terrorist attacks on the United States on September 11, 2001, the U.S. commercial aviation industry suffered severe financial losses. These losses placed the financial survival of many air carriers at risk. Acting rapidly to preserve the continued viability of the U.S. air transportation system, President Bush sought and Congress enacted the Air Transportation Safety and System Stabilization Act (''the Act''), Pub. L. 107–42.

Under section 101(a)(2)(A–B) of the Act, a total of $5 billion in compensation is provided for ''direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continue or renews such stoppage; and the incremental losses incurred beginning September 11, 2001 and ending December 31, 2001, by air carriers as a direct result of such attacks.'' The Department of Transportation previously disbursed initial estimated payments of nearly $2.5 billion of the $5 billion amount that Congress authorized, using procedures set forth in the Department's Program Guidance Letters that were widely distributed and posted on the Department' Web site.

On October 29, 2001 (66 FR 54616), the Department published in the **Federal Register** a final rule and request for comments to establish procedures for air carriers who had received or wished to receive compensation under the Act. The rule covered such subjects as eligibility, deadlines for application, information and forms required of applicants, and audit requirements. The Department has received submissions from many carriers pursuant to this rule and is continuing to process requests for compensation.

Respondents: U.S. air carriers.

Estimated Number of Respondents: 430.

Estimated Total Burden on Respondents: 5,320 hours.

Comments are invited on: (a) Whether the proposed collection of Information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected, and (d) ways to minimize the burden of the collection of information of respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC, on February 14, 2002.

Randall D. Bennett,

Director, Office of Aviation Analysis.

[FR Doc. 02–4414 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement Number PS–ACE100–2001–02]

Small Airplane Directorate Policy on Flammability Testing

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance and availability.

SUMMARY: This notice announces a Federal Aviation Administration (FAA) policy on flammability testing of materials used in small airplanes. This notice advises the public, especially manufacturers of normal, utility, and acrobatic category airplanes, and commuter category airplanes used in

non-scheduled service and their suppliers, that the FAA has adopted a new policy concerning flammability testing. This notice is necessary to advise the public of methods to obtain copies of this final FAA policy.

EFFECTIVE DATE: The subject final policy was issued on January 23, 2002, and became effective on that date.

DISCUSSION: On August 3, 2001, the Small Airplane Directorate issued a proposed policy statement. We made the proposed policy statement available to the public (66 FR 42703, August 14, 2001) and to all manufacturers for their comments. The comment period closed September 13, 2001, and all comments were considered before the final policy was issued.

ADDRESSES: Copies of the final policy statement, PS–ACE100–2001–02, may be requested from the following: Small Airplane Directorate, Standards Office (ACE–110), Aircraft Certification Office, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, MO 64106. The policy statement is also available on the Internet at the following address *http://www.faa.gov/certification/aircraft/small_airplanes_advisory.html.*

FOR FURTHER INFORMATION CONTACT: Leslie B. Taylor, Federal Aviation Administration, Small Airplane Directorate, Regulations & Policy, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4134; fax: 816–329–4090; e-mail: *leslie.b.taylor@faa.gov.*

Issued in Kansas City, Missouri on January 29, 2002.

Marvin Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–4412 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 4, 2001. No comments were received.

DATES: Comments must be submitted on or before March 27, 2002.

FOR FURTHER INFORMATION CONTACT: Murray A. Bloom, Maritime Administration, MAR–222, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5320 or FAX 202–366–7485.

Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Maritime Administration (MARAD)

Title: Application for Designation of Vessels as American Great Lakes Vessels.

OMB Control Number: 2133–0521.

Type or Request: Extension of currently approved collection.

Affected Public: Shipowners of merchant vessels.

Form (s): None.

Abstract: In accordance with Public Law 101–624, the Secretary of Transportation issued requirements for the submission of applications for designation of vessels as American Great Lakes Vessels. Owners who wish to have this designation must certify that their vessel(s) meets certain criteria established in 46 CFR part 380. This collection of information is mandated by statute to establish that a vessel meets statutory criteria for obtaining the benefit of eligibility to carry preference cargoes.

Annual Estimated Burden Hours: 1.25 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

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 proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on February 20, 2002.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–4409 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–10900; Notice 2]

Decision that Nonconforming 1998 Chrysler Grand Voyager Multi-Purpose Passenger Vehicles are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1998 Chrysler Grand Voyager multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1998 Chrysler Grand Voyager MPVs not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 1998 Chrysler Grand Voyager), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of February 25, 2002.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is

capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''WETL'') (Registered Importer 90–005) petitioned NHTSA to decide whether 1998 Chrysler Grand Voyager MPVs originally manufactured for sale in the European market are eligible for importation into the United States. NHTSA published notice of the petition on November 19, 2001 (66 FR 58003) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice of the petition. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–373 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1998 Chrysler Grand Voyager MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 1998 Chrysler Grand Voyager MPVs originally manufactured for sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 20, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–4413 Filed 2–22–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''(MA)-Loans in Areas Having Special Flood Hazards (12 CFR 22).'' The OCC also gives notice that it has sent the information collection to OMB for review and approval.

DATES: You should submit your comments to the OCC and the OMB Desk Officer by March 27, 2002.

ADDRESSES: You should direct comments to:

Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0202, 250 E Street, SW, Washington, DC 20219. Due to recent, temporary disruptions in the OCC's mail service, commenters are encouraged to submit comments by fax or e-mail. Comments may be sent by fax to (202) 874–4448, or by e-mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Alexander T. Hunt, OMB Desk Officer for the OCC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: (MA)-Loans in Areas Having Special Flood Hazards (12 CFR 22).

OMB Number: 1557–0202.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection. The OCC requests only that OMB extend its approval of the information collection. This regulation requires national banks to make disclosures and keep records regarding whether a property securing a loan is located in a special flood hazard area.

This information collection is required by section 303(a) and title V of the Riegle Community Development and Regulatory Improvement Act, Pub. L. 103–325, title V, 108 Stat. 2160, the National Flood Insurance Reform Act of 1994 amendments to the National Flood Insurance Act of 1968 (42 U.S.C. 4104a and 4104b), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a and 4106(b)), and by OCC regulations implementing those statutes. The information collection requirements are contained in 12 CFR part 22.

Section 22.6 requires a national bank to use and maintain a copy of the Standard Flood Hazard Determination Form developed by the Federal Emergency Management Agency (FEMA).

Section 22.7 requires a national bank or its loan servicer, if a borrower has not obtained flood insurance, to notify the borrower to obtain adequate flood insurance coverage or the bank or servicer will purchase flood insurance on the borrower's behalf.

Section 22.9 requires a national bank making a loan secured by a building or a mobile home located in a special flood hazard area to advise the borrower and the loan servicer whether the property located in a special flood hazard area, whether flood insurance on the property securing the loan is required, whether flood insurance is available under the National Flood Insurance Program, and if Federal disaster relief may be available in the event of flooding. The bank must maintain a record of the borrower and loan servicer's receipts of these notices.

Section 22.10 requires a national bank making a loan secured by a building or a mobile home located in a special flood hazard area to notify FEMA of the identity of the servicer, and of any change in servicers.

These information collection requirements ensure bank compliance with applicable Federal law, further bank safety and soundness, provide protections for banks and the public, and further public policy interests.

Type of Review: Extension of OMB approval.

Affected Public: Businesses or other for-profit (national banks).

Estimated Number of Respondents: 2,300.

Estimated Total Annual Responses: 230,000.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 58,650 hours.

Dated: February 15, 2002.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 02–4342 Filed 2–22–02; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease Development for a New Department of Veterans Affairs (VA) Veterans Assistance Office (VAO), Las Vegas, NV

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Designation.

SUMMARY: The Secretary of the Department of Veterans Affairs (VA) is designating VA-controlled property adjacent to the VA Ambulatory Care Center in Las Vegas, Nevada, as a site for Enhance-Use development. The Department intends to enter into a long-term (up to 75 years) lease of real property with a competitively selected developer who will finance, develop, and operate office space needed for VA administrative purposes. VA will improve services, reduce operating costs, and optimize capital investments.

FOR FURTHER INFORMATION CONTACT: Brian McDaniel, Asset Enterprise Management (004B), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420, (202) 273–9702.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 8161 *et. seq.,* specifically provides that the Secretary may enter into an Enhanced-Use lease if he determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department. The lease will not be inconsistent with and will not adversely affect the mission of the Department. The lease will enhance the use of the property or the Secretary must determine that the project will result in a demonstrable improvement of services to veterans. This project meets these requirements.

Approved: February 11, 2002.

Anthony J. Principi,

Secretary.

[FR Doc. 02–4328 Filed 2–22–02; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 67, No. 37

Monday, February 25, 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.

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Issuance of Nationwide Permits; Notice; Correction

Correction

In notice document 02–3555 beginning on page 6692 in the issue of Wednesday, February 13, 2002, make the following corrections:

1. On page 6693, in the second column, in paragraph a., in the second line ''1/12'' should read ''1/2''.

2. On the same page, in the third column, in paragraph i. in the 11th line ''1/2'' should read ''1/12''.

3. On the same page, in the third column, in paragraph i. in the 15th line ''1/2'' should read ''1/12''.

[FR Doc. C2–3555 Filed 2–22–02; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 95

[ET Docket No. 00–221; ET Docket No. 99–255;PR Docket No. 92–235; WT Docket 97–153; FCC 01–382]

Reallocation of 27 MHz of Spectrum

Correction

In final rule document 02–2170 beginning on page 6172 in the issue of Monday, February 11, 2002, make the following correction:

§ 95.639 [Corrected]

On page 6193, in the third column, in the first line of § 95.639, ''(a)'' should read, ''(g)''.

[FR Doc. C2–2170 Filed 2–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

49 CFR Part 1511

[Docket No. TSA-2002-11334]

RIN 2110-AA02

Aviation Security Infrastructure Fees

Correction

In rule document 02–4148 beginning on page 7926 in the issue of Wednesday, February 20, 2002, make the following corrections:

§ 1511.7 [Corrected]

1. On page 7930, in §1511.7, in the third column, the third paragraph designation ''(a)'' should read ''(c)'' .

2. On page 7930, in §1511.7, in the third column, the fourth paragraph designation ''(b)'' should read ''(d)'' .

3. On page 7930, in §1511.7, in the third column, the seventh paragraph designation ''(a)'' should read ''(e)''.

[FR Doc. C2–4148 Filed 2–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8960]

RIN 1545–BA01

Guidance Under §355(e); Recognition of Gain on Certain Distributions of Stock or Securities in Connection With an Acquisition

Correction

In rule document 01–19353 beginning on page 40590 in the issue of Friday, August 3, 2001, make the following correction:

§1.355-7T [Corrected]

On page 40596, in the third column, the third paragraph should read

''(n) *Effective date.* This section applies to distributions occurring after August 3, 2001.''

[FR Doc. C1–19353 Filed 2–22–02; 8:45 am]

BILLING CODE 1505–01–D

Corrections

Federal Register

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[FR Doc. C2–3555 Filed 2–22–02; 8:45 am]

BILLING CODE 1505–01–D

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[FR Doc. C2–2170 Filed 2–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

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49 CFR Part 1511

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[FR Doc. C2–4148 Filed 2–22–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TREASURY

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[TD 8960]

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[FR Doc. C1–19353 Filed 2–22–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
February 25, 2002

Part II

Environmental Protection Agency

40 CFR Part 432

Effluent Limitations Guidelines and New Source Performance Standards for the Meat and Poultry Products Point Source Category; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 432

[FRL–7137–9]

RIN 2040–AD56

Effluent Limitations Guidelines and New Source Performance Standards for the Meat and Poultry Products Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action presents the Agency's proposed effluent limitations guidelines and standards for wastewater discharges from meat and poultry processing facilities. The proposed regulation revises technology-based effluent limitations guidelines and standards for wastewater discharges associated with the operation of new and existing meat processing and independent rendering facilities, proposes new effluent limitations guidelines for poultry slaughtering and poultry further processing facilities that discharge wastewater, and revises the name of the regulation.

EPA estimates that compliance with this regulation as proposed would reduce the discharge of nutrients by at least 53 million pounds per year and would cost an estimated $80 million (year 1999 $, pre-tax) on an annual basis. In addition, EPA expects that discharges of conventional pollutants would be reduced by at least 32 million pounds per year. EPA has estimated that the annual quantifiable benefits of the proposal would be approximately $37 million.

DATES: EPA must receive comments on the proposal by midnight of April 26, 2002. EPA will conduct two public hearings on March 14, 2002 at 1 p.m. (Kansas City, MO) and April 9, 2002 at 9 a.m. (Washington, DC). For information on the location of the public hearings, see **ADDRESSES**.

ADDRESSES: Submit written comments to Ms. Samantha Lewis, Office of Water, Engineering and Analysis Division (4303T), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. For hand-deliveries or Federal Express, please send comments to Ms. Samantha Lewis, Office of Water, Engineering and Analysis Division, Room 6233L, 1201 Constitution Avenue, NW., 6th Floor, Connecting Wing, Washington, DC 20460. Comments may be sent by e-mail to the following e-mail address: ''meatproducts.rule@epa.gov''. For additional information on how to submit comments, see **SUPPLEMENTARY INFORMATION**, How to Submit Comments.

The first public hearing on this proposal will be held at the Hilton KCI Airport Hotel, 8801 NW 112th Street, Kansas City, Missouri. The second public hearing on this proposal will be held at the U.S. EPA auditorium, Waterside Mall, 401 M Street SW., Washington, DC.

The public record for this proposed rulemaking has been established under docket number W–01–06 and is located in the Water Docket East Tower Basement, Room EB57, 401 M St. SW., Washington, DC 20460. The record is available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. For access to the docket materials, call (202) 260–3027 to schedule an appointment. You may have to pay a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: For technical information concerning today's proposed rule, contact Ms. Samantha Lewis at (202) 566–1058. For economic information contact Dr. William Wheeler at (202) 566–1078.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action include:

Category	Examples of regulated entities	Primary SIC and NAICS codes
Industry	Facilities engaged in first processing, further processing, or rendering of meat and poultry products, which may include the following sectors:	
	Meat Packing Plants	2011 (SIC).
	Animal (except Poultry) Slaughtering	311611 (NAICS).
	Meat Processed from Carcasses	311612 (NAICS).
	Sausages and Other Prepared Meat Products	2013 (SIC).
	Poultry Slaughtering and Processing	2015 (SIC).
	Poultry Processing	311615 (NAICS).
	Rendering and Meat By-Product Processing	311613 (NAICS).
	Support Activities for Animal Production	11521 (NAICS).
	Prepared Feed and Feed Ingredients for Animals and Fowls, Except Dogs and Cats	2048 (SIC).
	Dog and Cat Food	2047 (SIC).
	Dog and Cat Food Manufacturing	311111 (NAICS).
	Other Animal Food Manufacturing	311119 (NAICS).
	All Other Miscellaneous Food Manufacturing	311999 (NAICS).
	Animal and Marine Fats and Oils	2077 (SIC).
	Poultry Hatcheries and	11234 (NAICS).
	Livestock Services, Except Veterinary	0751 (SIC).

The preceding table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by promulgation of this proposed rule. Other types of entities not listed in the table could also be regulated. To determine whether your facility would be regulated by promulgation of this proposed rule, you should carefully examine the applicability subsection of each proposed subpart of part 432. You should also examine the description of the proposed scope of each subpart in Section VI.B of this document. If you have questions regarding the applicability of this proposed action to a particular entity, please contact the person listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

How To Submit Comments

EPA requests an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

Please submit any references cited in your comments.

Comments may also be sent via e-mail, see **ADDRESSES.** Electronic comments must specify docket number W–01–06 and must be submitted as an ASCII, Word, or WordPerfect file avoiding the use of special characters and any form of encryption. Electronic comments on this proposal may be filed online at many Federal Depository Libraries. No confidential business information (CBI) should be sent via e-mail.

Protection of Confidential Business Information (CBI)

EPA notes that certain information and data in the record supporting the proposed rule have been claimed as CBI and, therefore, are not included in the record that is available to the public in the Water Docket. Pursuant to EPA regulations at 40 CFR 2.203 and 2.211, EPA treats all information for which a claim of confidentiality is made as confidential unless and until it makes a determination to the contrary under 40 CFR 2.205. Further, the Agency has not included in the docket some data not claimed as CBI because release of this information would indirectly reveal information claimed to be confidential. To provide the public with as much information as possible in support of the proposed rulemaking, EPA is presenting in the public record certain information in aggregated form or, alternatively, is masking facility identities or employing other strategies in order to preserve confidentiality claims. This approach ensures that the information in the public record both explains the basis for today's proposal and allows for a meaningful opportunity for public comment, without compromising CBI claims.

Some tabulations and analyses of facility-specific data claimed as CBI are available to the company that submitted the information. To ensure that all data or information claimed as CBI is protected in accordance with EPA regulations, any requests for release of such company-specific data should be submitted to EPA on company letterhead and signed by a responsible official authorized to receive such data. The request must list the specific data requested and include the following statement, ''I certify that EPA is authorized to transfer confidential business information submitted by my company, and that I am authorized to receive it.''

Supporting Documentation

The rules proposed today are supported by several documents:

1. ''Economic Analysis of Proposed Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Industry Point Source Category'' (EPA–821–B–01–006). Hereafter referred to as the MPP Economic Analysis, this document presents the analysis of compliance costs; facility, firm, small business and market impacts; and benefits. In addition, this document presents an analysis of cost-effectiveness.

2. ''Development Document for Proposed Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Industry Point Source Category'' (EPA–821–B–01–007). Hereafter referred to as the MPP Development Document, the document presents EPA's technical conclusions concerning the MPP proposal. This document describes, among other things, the data collection activities, the wastewater treatment technology options, effluent characterization, effluent reduction of the wastewater treatment technology options, estimate of costs to the industry, and estimate of effects on non-water quality environmental impacts.

3. ''Environmental Assessment of Proposed Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Industry Point Source Category'' (EPA–821–B–01–008). Hereafter referred to as the MPP Environmental Assessment, the document presents the analysis of water quality impacts and potential benefits for each regulatory option.

How to Obtain Supporting Documents

All documents are available from the National Service Center for Environmental Publications, P.O. Box 42419, Cincinnati, OH 45242–2419, (800) 490–9198 and the EPA Water Docket. The supporting technical documentation (*e.g.*, MPP Development Document, Economic Analysis and Environmental Assessment) can be obtained on the Internet, located at *http://www.epa.gov/ost/guide/meatproducts/*. This website also links to an electronic version of today's proposed rule.

Overview

The preamble describes the legal authority for the proposal; a summary of the proposal; background information; the technical and economic methodologies used by the Agency to develop these proposed regulations and, in an appendix, the definitions, acronyms, and abbreviations used in this document. This preamble also solicits comment and data generally, and on specific areas of interest.

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I. Legal Authority

These regulations are proposed under the authority of sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361.

II. Legislative Background

A. Clean Water Act

Congress adopted the Clean Water Act (CWA) to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' Section 101(a), 33 U.S.C. 1251(a). To achieve this goal, the CWA prohibits the discharge of pollutants into navigable waters except in compliance with the statute. The Clean Water Act confronts the problem of water pollution on a number of different fronts. Its primary reliance, however, is on establishing restrictions on the types and amounts of pollutants discharged from various industrial, commercial, and public sources of wastewater.

Direct dischargers must comply with effluent limitations in National Pollutant Discharge Elimination System (NPDES) permits; indirect dischargers must comply with pretreatment standards. Effluent limitations in NPDES permits are derived from effluent limitations guidelines and new source performance standards promulgated by EPA, as well as from water quality standards. The effluent limitations guidelines and standards are established by regulation for categories of industrial dischargers and are based on the degree of control that can be achieved using various levels of pollution control technology.

Congress recognized that regulating only those sources that discharge effluent directly into the nation's waters would not be sufficient to achieve the CWA's goals. Consequently, the CWA requires EPA to promulgate nationally applicable pretreatment standards that restrict pollutant discharges from facilities that discharge wastewater indirectly through sewers flowing to publicly owned treatment works (POTWs). See section 307(b) and (c), 33 U.S.C. 1317(b) and (c). National pretreatment standards are established for those pollutants in wastewater from indirect dischargers that may pass through, interfere with or are otherwise incompatible with POTW operations. Generally, pretreatment standards are designed to ensure that wastewaters from direct and indirect industrial dischargers are subject to similar levels of treatment. In addition, POTWs are required to implement local treatment limits applicable to their industrial indirect dischargers to satisfy any local requirements. See 40 CFR 403.5.

1. Best Practicable Control Technology Currently Available (BPT)—Sec. 304(b)(1) of the CWA

EPA may promulgate BPT effluent limits for conventional, toxic, and non-conventional pollutants. For toxic pollutants, EPA typically regulates priority pollutants which consist of a specified list of toxic pollutants. In specifying BPT, EPA looks at a number of factors. EPA first considers the cost of achieving effluent reductions in relation to the effluent reduction benefits. The Agency also considers the age of the equipment and facilities, the processes employed, engineering aspects of the control technologies, any required process changes, non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator deems appropriate. See CWA 304(b)(1)(B). Traditionally, EPA establishes BPT effluent limitations based on the average of the best performances of facilities within the industry, grouped to reflect various ages, sizes, processes, or other common characteristics. Where, however, existing performance is uniformly inadequate, EPA may establish limitations based on higher levels of control than currently in place in an industrial category if the Agency determines that the technology is available in another category or subcategory, and can be practically applied.

2. Best Control Technology for Conventional Pollutants (BCT)—Sec. 304(b)(4) of the CWA

The 1977 amendments to the CWA required EPA to identify additional levels of effluent reduction for conventional pollutants associated with BCT technology for discharges from existing industrial point sources. In addition to other factors specified in section 304(b)(4)(B), the CWA requires that EPA establish BCT limitations after consideration of a two part ''cost-reasonableness'' test. EPA explained its methodology for the development of BCT limitations in July 1986 (51 FR 24974).

Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD_5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501).

3. Best Available Technology Economically Achievable (BAT)—Sec. 304(b)(2) of the CWA

In general, BAT effluent limitations guidelines represent the best economically achievable performance of facilities in the industrial subcategory or category. The CWA establishes BAT as a principal national means of controlling the direct discharge of toxic and nonconventional pollutants. The factors considered in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the process employed, potential process changes, and non-water quality environmental impacts including energy requirements, and such other factors as the Administrator deems appropriate. The Agency retains considerable

discretion in assigning the weight to be accorded these factors. An additional statutory factor considered in setting BAT is economic achievability. Generally, EPA determines economic achievability on the basis of total costs to the industry and the effect of compliance with BAT limitations on overall industry and subcategory financial conditions. As with BPT, where existing performance is uniformly inadequate, BAT may reflect a higher level of performance than is currently being achieved based on technology transferred from a different subcategory or category. BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice.

4. New Source Performance Standards (NSPS)—Sec. 306 of the CWA

New Source Performance Standards reflect effluent reductions that are achievable based on the best available demonstrated control technology. New facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the most stringent controls attainable through the application of the best available demonstrated control technology for all pollutants (that is, conventional, nonconventional, and priority pollutants). In establishing NSPS, EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

5. Pretreatment Standards for Existing Sources (PSES)—Sec. 307(b) of the CWA

Pretreatment Standards for Existing Sources are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTW). Categorical pretreatment standards are technology-based and are analogous to BAT effluent limitations guidelines.

The General Pretreatment Regulations, which set forth the framework for the implementation of categorical pretreatment standards, are found at 40 CFR part 403. These regulations establish pretreatment standards that apply to all non-domestic dischargers. See 52 FR 1586 (Jan. 14, 1987).

6. Pretreatment Standards for New Sources (PSNS)—Sec. 307(c) of the CWA

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources at the same time it promulgates new source performance standards. Such pretreatment standards must prevent the discharge of any pollutant into a POTW that may interfere with, pass through, or may otherwise be incompatible with the POTW. EPA promulgates categorical pretreatment standards for existing sources based principally on BAT technology for existing sources. EPA promulgates pretreatment standards for new sources based on best available demonstrated technology for new sources. New indirect dischargers have the opportunity to incorporate into their facilities the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating NSPS.

B. Section 304(m) Consent Decree

Section 304(m) requires EPA to publish a plan every two years that consists of three elements. First, under section 304(m)(1)(A), EPA is required to establish a schedule for the annual review and revision of existing effluent guidelines in accordance with section 304(b). Section 304(b) applies to effluent limitations guidelines for direct dischargers and requires EPA to revise such regulations as appropriate. Second, under Section 304(m)(1)(B), EPA must identify categories of sources discharging toxic or nonconventional pollutants for which EPA has not published BAT effluent limitations guidelines under 304(b)(2) or new source performance standards under section 306. Finally, under 304(m)(1)(C), EPA must establish a schedule for the promulgation of BAT and NSPS for the categories identified under subparagraph (B) not later than three years after being identified in the 304(m) plan. Section 304(m) does not apply to pretreatment standards for indirect dischargers, which EPA promulgates pursuant to Sections 307(b) and 307(c) of the Clean Water Act.

On October 30, 1989, Natural Resources Defense Council, Inc., and Public Citizen, Inc., filed an action against EPA in which they alleged, among other things, that EPA had failed to comply with CWA Section 304(m). Plaintiffs and EPA agreed to a settlement of that action in a consent decree entered on January 31, 1992. The consent decree, which has been modified several times, established a schedule by which EPA is to propose and take final action for eleven point source categories identified by name in the decree and for eight other point source categories identified only as new or revised rules, numbered 5 through 12. EPA selected the meat and poultry products industry as the subject for New or Revised Rule #11. Under the decree, as modified, the Administrator was required to sign a proposed rule for the meat and poultry products industry no later than January 30, 2002, and must take final action on that proposal no later than December 31, 2003.

III. Scope/Applicability of Proposed Regulation

EPA solicits comments on various issues specifically identified in the preamble as well as any other applicability issues that are not specifically addressed in today's notice. The following discussion of applicability begins with the proposed revisions to the existing subcategories. Section III.B presents the applicability for two new subcategories for poultry facilities.

A. Facilities Subject to 40 CFR Part 432

EPA is proposing new or revised effluent limitations guidelines and standards for nine of the ten subcategories of the meat and poultry products industry including: simple slaughterhouse, complex slaughterhouse, low processing packinghouse, high processing packinghouse, meat cutter, sausage and luncheon meats processor, ham processor, canned meats processor, and renderer. EPA is also proposing to change the name of the category since poultry processing facilities are covered by the proposed requirements. No new or revised effluent limitations guidelines or pretreatment standards are being proposed for the small processor category.

The technology options which serve as the basis for the proposed effluent limitations guidelines and standards for the meat subcategories are summarized in Table III.A–1. For descriptions and discussion of the subcategories, see Section VI; for the technologies, see Section VII.D; and for a discussion of the process wastewater generated by these subcategories, see Section VII.B.

TABLE III.A–1.—SUMMARY OF REVISIONS TO MEAT AND POULTRY PRODUCTS EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS

Subcategory	Regulatory level	Technology option [1]	Technical components [2]
Subpart A: Simple Slaughterhouse; Subpart B: Complex Slaughterhouse; Subpart C: Low-Processing Packinghouse; and Subpart D: High-Processing Packinghouse.	BPT	2	Equalization, dissolved air flotation, secondary biological treatment with nitrification.
	BAT; NSPS	3	Equalization, dissolved air flotation, secondary biological treatment with nitrification and denitrification.
	BCT	No Action	No revised limitations are proposed.
	PSES; PSNS	No Action	No pretreatment standards are proposed.
Subpart E: Small Processors	BPT; BCT; BAT; NSPS.	No Action	No revised limitations or standards are proposed.
	PSES;PSNS	No Action	No pretreatment standards are proposed.
Subpart F: Meat Cutter; Subpart G: Sausage and Luncheon Meats Processor; Subpart H: Ham Processor; and Subpart I: Canned Meats Processor.	BPT	2	Equalization, dissolved air flotation, secondary biological treatment with nitrification.
	BAT; NSPS	3	Equalization, dissolved air flotation, secondary biological treatment with nitrification and denitrification.
	BCT	No Action	No revised limitations are proposed.
	PSES; PSNS	No Action	No pretreatment standards are proposed.
Subpart J: Renderer	BPT; BCT	2	Equalization, dissolved air flotation, secondary biological treatment with nitrification.
	BAT; NSPS	2	Equalization, dissolved air flotation, secondary biological treatment with nitrification.
	PSES; PSNS	No Action	No pretreatment standards are proposed.

[1] See Section VII.D for a discussion of the technology options.
[2] See Section XI.C and XI.D for a discussion of the Agency's rationale on selecting options.

1. Meat (or Red Meat) Facilities

EPA established regulations which apply to the meat (or red meat) slaughterhouses and packinghouses (40 CFR part 432 subcategories A through D) in 1974. EPA established regulations which apply to meat further processing facilities (40 CFR part 432 subcategories E through I) in 1975. Although there is no definition of ''red meat'' or ''meat'' in the existing 40 CFR part 432 regulations, EPA defined these terms in the previous technical development documents associated with these prior rules as all animal products from cattle, calves, hogs, sheep, and lambs and any meat that is not listed under the definition of poultry. EPA is using the term ''meat'' as synonymous with the term ''red meat.'' EPA proposes to include a similar definition in the revised regulations (*see* Appendix A of this document).

The current regulations for meat cover all aspects of producing meat products from the slaughter of the animal to producing final consumer products (*e.g.* cooked, seasoned or smoked products, such as luncheon meat or hams.) For subparts F, G, H and I of the existing regulations, EPA established a production rate threshold of greater than 6,000 pounds of finished product per day, below which the regulations do not apply. Subpart E of the existing regulations (Small Processors) applies to meat further processors that produce up to 6,000 pounds of finished product per day.

EPA is not proposing to change the existing production rate thresholds in subparts E through I in this proposed rule for existing limitations and standards. Also, EPA is proposing new production rate thresholds in Subparts A through D and F through I for the proposed limitations and standards based on current data collected for this rulemaking (*see* Section III of the MPP Development Document). These new production rate thresholds do not affect subpart E (Small Processors) meat facilities as these proposed new production rate thresholds are all higher than the subpart E production rate threshold (i.e., 6,000 pounds of finished product per day). EPA defines the following facilities which are currently covered under 40 CFR part 432 as small:

- Facilities in Subcategories A, B, C and D that slaughter less than 50 million pounds (LWK) per year;
- All facilities in Subcategory E;
- Facilities in Subcategories F, G, H and I that produce less than 50 million pounds of finished product per year; and
- Facilities in Subcategory J that render less than 10 million pounds per year of raw material (*see* Section III.A.2).

EPA developed these new production rate thresholds based on current screener survey data available prior to proposal. EPA ordered the annual production screener survey data from highest to lowest annual production for each of the regulatory groupings (e.g., A–D, F–I, J, K, and L), then divided each of the regulatory groupings into four size classifications (e.g., small, medium, large, and very large) based on employment and annual production data. EPA performed this size classification task in order to more accurately estimate costs, loadings, NWQIs, and economic impacts of the proposed limitations and standards on this industry. That is, rather than assume one model facility for each of the five regulatory groupings, EPA used four model facilities for each of the five regulatory groupings for better accuracy in its analyses (*see* also MPP Development Document for further details on how these production based thresholds were developed). In evaluating the screener data related to facility annual production, several variables were identified. These were meat and poultry type processed, type of facility operation (*i.e.,* first processing (slaughtering), further processing, or rendering), number of facility employees, annual wastewater generation, and type of wastewater management (*e.g.,* direct discharger,

indirect discharger, land applied on site). Because EPA had only a limited amount of detailed information on facilities, the number of facility employees was selected as an indicator of facility size for modeling (e.g., costs, loads, economic impacts, NWQIs). EPA identified facilities with 100 employees or less as small and then identified the corresponding annual production thresholds. It is important to note for the purposes of estimating costs, loads, economic impacts and NWQIs, EPA used facility level employment data for developing one threshold between ''small'' and ''non-small'' facilities. The SBA size standard for these industries is 500 employees at the company level. EPA divided the remaining non-small facilities (i.e., medium, large, and very large) into equal thirds based on annual production.

EPA is using the results of the revised production rate thresholds to exclude most smaller MPP facilities from today's proposed revisions to 40 CFR part 432 because the technologies on which the options were based are not cost-effective for the facilities with the lowest production threshold (*i.e.,* the smallest facilities). However, these production based thresholds for the proposal are based on available screener survey data. A more detailed evaluation of these thresholds, along with the model facility identification will be made following evaluation of the detailed survey responses and may warrant a change in the production based thresholds. Most smaller MPP facilities are excluded from the scope of today's proposal for a number of reasons: (1) Small MPP facilities as group discharge less than 3% of the conventional pollutants (or 35 million lbs/year), 1% of the toxic pollutants (or 1.3 million lbs/year), 4% of the nutrients (or 7.5 million lbs/year), and less than 1.5% of the pathogens (or 47 x 10^9 CFU/year) as compared to all discharges from the entire MPP industry; (2) EPA determined that only a limited amount of loadings removal would be accomplished by improved treatment; and (3) EPA determined that ''small'' MPP facilities would discharge a very small portion of the total industry discharge. Therefore, EPA is not revising current limitations and standards for small meat facilities. The existing regulations, however, will continue to apply to those facilities. EPA is, however, setting limitations and standards for small poultry direct discharging facilities (for whom there are no existing standards) based on current performance (*see* Section III.B). As explained above, EPA's proposed definition of 'small' facility is based on the screener data available for this proposal. EPA will be re-evaluating this data in preparation for the NODA. EPA is also soliciting comment on alternative definitions of small facilities at higher production levels (representing facilities with more than 100 employees). A supplemental analysis in the record (Docket No. W–01–06, Record No. 25010) compares the alternative definitions in terms of costs, pollutant removals, and economic impacts on the affected facilities. For example, in Subpart K, there are no ''small'' facilities, as defined by EPA, whereas there are 35 medium facilities and 60 large and very large facilities (using currently available data). Thirty-one of the 35 facilities defined as ''medium'' facilities are owned by small businesses (defined as firms with less than 500 employees). EPA specifically is requesting comment on whether the medium facilities in the various Subparts should be included in the ''small'' facility category, particularly in Subpart K which has no ''small facilities.'' In assessing alternate small facility definitions, EPA shall consider the same factors discussed above (e.g. economic impact, small pollutant loadings, etc.) and requests comment on how alternative thresholds might be justified using these factors.

The existing regulations apply to all sizes of meat direct dischargers (except for renderers processing less than 75,000 pound raw material per day—*see* Section III.A.2). The revisions to 40 CFR part 432 being proposed today apply to meat facilities (*see* Section III.A.1) above the new production based thresholds and all poultry facilities that discharge directly to a receiving stream or other waters of the United States (*see* Section III.B for a discussion of poultry facilities).

2. Rendering

In 1975, EPA established regulations (40 CFR part 432, Subcategory J) which apply to independent renderers, defined as independent or off-site operations that manufacture meat meal, dried animal by-product residues (tankage), animal fats or oils, grease and tallow, perhaps including hide curing, by a renderer. The existing regulations establish a size threshold of 75,000 pounds of raw material per day processed. Facilities which process less than this amount are not subject to the existing regulations. EPA is proposing to lower this production threshold so that subpart J applies to facilities that render more than 10 million pounds per year of raw material (or approximately 27,000 pounds per day for a facility that operates 365 days per year). EPA is lowering this production threshold based on data collected for this rulemaking. See Section III.A.1 for a description of EPA's reasons for setting production thresholds and exempting most small MPP facilities (including small rendering facilities that render less than 10 million pounds per year of raw material) from today's revisions to 40 CFR part 432.

Subpart J applies to the rendering of any meat or poultry raw material. When rendering is done in conjunction with a meat slaughterhouse or packinghouse, the rendering wastewater is regulated under the limitations for the appropriate meat slaughtering or packinghouse subcategory (*i.e.,* under subpart A, B, C, or D).

B. Poultry Slaughtering and Further Processing Facilities

EPA is proposing to establish effluent limitations guidelines and new source performance standards for the poultry first processing (*i.e.* slaughtering) and further processing subcategories, and to revise the category title accordingly. Poultry includes broilers, other young chickens, hens, fowl, mature chickens, turkeys, capons, geese, ducks, exotic poultry (*e.g.,* ostriches), and small game such as quail, pheasants, and rabbits (*see* Appendix A of this document).

EPA proposed regulations for this segment of the meat and poultry products industry in 1975, but did not finalize them. EPA has reanalyzed this segment of the meat and poultry products industry and is proposing today to establish BPT, BCT, and BAT limitations for existing facilities and new source performance standards. EPA proposes to create two new subcategories which would apply to poultry processing facilities. The first new poultry subcategory is the ''poultry first processing'' subcategory which includes the slaughtering and evisceration of the bird or animal and dressing the carcass for shipment either whole or in parts, such as leg, quarters, breasts and boneless pieces. These facilities are commonly known as ''ice pack facilities.'' The second new poultry subcategory is the ''poultry further processing'' subcategory which includes additional preparation of the meat including further cutting, cooking, seasoning and smoking to produce ready to be eaten or reheated servings. The additions to 40 CFR part 432 for poultry being proposed today apply to facilities that discharge directly to a receiving stream and other waters of the United States. EPA is proposing to set less stringent effluent limitations guidelines for direct dischargers slaughtering up to 10 million pounds

per year than on facilities which slaughter over 10 million pounds per year and for further processors producing 7 million pounds per year than on facilities which produce over 7 million pounds per year. See Section III.A.1 for a description of EPA's reasons for setting production thresholds. The treatment options proposed for larger poultry slaughtering and further processing facilities are economically unachievable for small poultry slaughtering and further processing facilities. Rendering performed in conjunction with a poultry first processing facility would be subject to the appropriate regulations under the poultry slaughtering (Subpart K).

The technology options which serve as the basis for the proposed effluent limitations guidelines and standards being for the poultry portion of the industry are summarized in Table III.B–1. For descriptions and discussion of the subcategories, *see* Section VI.D; for the technologies, *see* Section VII.D; and for a discussion of the process wastewater generated by these subcategories, *see* section VII.B.

TABLE III.B–1.—SUMMARY OF REGULATORY OPTIONS FOR POULTRY FIRST AND FURTHER PROCESSORS

Subcategory	Regulatory level	Technology option[1]	Technical components[2]
Subpart K: Poultry First Processing (facilities which slaughter up to 10 million pounds per year); and, Subpart L: Poultry Further Processing (facilities which produce up to 7,000 pounds per year of finished product).	BPT; BCT	1	Equalization, dissolved air flotation, secondary biological treatment with less efficient nitrification.
	BAT; NSPS	1	Equalization, dissolved air flotation, secondary biological treatment with less efficient nitrification.
	PSES; PSNS ..	No Action	No pretreatment standards are proposed.
Subpart K: Poultry First Processing (facilities which slaughter more than 10 million pounds per year); and, Subpart L: Poultry Further Processing (facilities which produce more than 7,000 pounds per year of finished product).	BPT; BCT	3	Equalization, dissolved air flotation, secondary biological treatment with nitrification and denitrification.
	BAT; NSPS	3	Equalization, dissolved air flotation, secondary biological treatment with nitrification and denitirification.
	PSES; PSNS ..	No Action	No pretreatment standards are proposed.

[1] See Section VII.D for a discussion of the technology options.
[2] See Section XI.E for a discussion of the Agency's rationale on selecting options.

IV. Rulemaking History and Industry Profile

A. Meat Products Effluent Guideline Rulemaking History

The effluent limitations guidelines and standards for the meat products industry were developed and promulgated in the 1970's. The existing regulations for the meat slaughtering and processing subcategories and independent rendering were issued in phases and are grouped together under 40 CFR part 432.

EPA promulgated BPT, BAT, NSPS limitations and standards for existing and new meat slaughterhouses and packinghouses on February 28, 1974 (39 FR 7894). The 1974 regulation established effluent limitations and standards for existing and new sources for four types of meat slaughterhouses and packinghouses: Simple Slaughterhouse, Complex Slaughterhouse, Low Processing Packinghouse, and High Processing Packinghouse (40 CFR part 432, Subcategories A–D).

EPA promulgated BPT, BAT, NSPS limitations and standards for existing and new meat further processing subcategories and the independent rendering subcategory on January 3, 1975 (40 FR 902). The 1975 regulation established effluent limitations and standards for existing and new sources for six additional types of facilities: Small Processor, Meat Cutter, Sausage and Luncheon Meats Processor, Ham Processor, Canned Meats Processor, and Independent Renderer (40 CFR part 432, Subcategories E–J).

BCT limitations were promulgated on August 29, 1979 (44 FR 50732) for all meat subcategories and independent rendering (40 CFR part 432, Subcategories A–J).

EPA did not establish pretreatment standards (neither PSES nor PSNS) for any of meat subcategories and independent rendering (40 CFR part 432, Subcategories A–J) in the 1974 or 1975 regulations.

The BPT and BAT limitations established in the February 28, 1974 notice were the subject of litigation in *American Meat Institute* v. *EPA*, 526 F.2d 442 (7th Cir. 1975). The Seventh Circuit Court of Appeals reviewed the effluent limitations and remanded selected portions of those regulations. The BPT and BAT regulations remanded by the court were subsequently revised or withdrawn (*see* 44 FR 50732, August 29, 1979; 45 FR 82253, December 15, 1980).

The regulations in the independent rendering subcategory were also the subject of litigation in *National Renderers Association et al.,* v. *EPA, et al.,* 541 F. 2d 1281 (8th Cir. 1976). The Court remanded the regulations to the Agency to reconsider the economic impact of the costs associated with these requirements. The BAT limitations for independent renderers were not remanded, but EPA reevaluated these limitations nonetheless. On October 6, 1977 (42 FR 54417), EPA promulgated a final rule which revised the BAT limitations and new source performance standards for this subcategory. In that final rule, the BAT limitations for ammonia, BOD_5, and TSS are less stringent than the original BAT limitations; however, the NSPS are more stringent than the original NSPS standards. In the final rule, EPA retained an exclusion for small facilities (less than 75,000 pounds of raw material per day) from BPT, BAT, and NSPS.

EPA proposed BPT, BAT, NSPS, PSNS limitations and standards for existing and new poultry slaughterers and processors on April 24, 1975 (40 FR 18150). EPA proposed to subcategorize the poultry processing sector into five subcategories, distinguished by the animal or bird being processed and an additional subcategory which applied to further processing. These regulations were never finalized as the 1977

amendments to the Clean Water Act refocused the Agency's attention on establishing effluent limitations guidelines for industry sectors with effluents containing toxic metals and organics.

B. Industry Profile

The meat and poultry products industry includes facilities which slaughter livestock (e.g., cattle, calves, hogs, sheep and lambs) and/or poultry or process meat and/or poultry into products for further processing or sale to consumers. The industry is often described in terms of three categories: (1) Meat slaughtering and processing; (2) poultry slaughtering and processing; (3) and rendering. Facilities may perform slaughtering operations, processing operations from carcasses slaughtered at other facilities, or both. Companies that own meat or poultry product facilities may also own facilities that either raise the animals or further process the meat or poultry products into final consumer products. These other enterprises are not covered by the meat and poultry products industry effluent limitations guidelines.

Since the 1970's when EPA issued the existing regulations for meat and rendering industry sectors, the meat and poultry products industry has become increasingly concentrated or vertically integrated through alliances, acquisitions, mergers, and other relationships. This vertical integration is particularly pronounced in the broiler sector of the poultry industry. Most of the broiler and other chicken products which reach the consumer have been under the control of the same company from the hatching of the flocks through the processing of the birds. Vertical integration is not seen to the same extent in the meat sector, although there is increasing vertical integration, particularly in the hog sector.

The meat and poultry products industry encompasses four North American Industry Classification System (NAICS) codes which are developed by the Department of Commerce. These NAICS codes include: Animal Slaughtering (Except Poultry) (NAICS 311611); Meat Processed from Carcasses (NAICS 311612); Poultry Processing (NAICS 311615); and Rendering and Meat Byproduct Processing (NAICS 311613).

Animal Slaughtering (Except Poultry) (NAICS 311611), includes meat first processing facilities which slaughter cattle, hogs, sheep, lambs, calves, horses, goats, and exotic livestock (*e.g.,* elk, deer, buffalo) for human consumption. Slaughtering is the first step in the processing of meat animals into consumer products (*i.e.,* calves, hogs, sheep, and lambs). Slaughterhouse operations typically encompass the following steps: (1) Receiving and holding of live animals for slaughter; (2) stunning of animals prior to slaughter; (3) slaughter (exsanguination) of animals; and (4) initial processing of animals. Slaughterhouse facilities are designed to accommodate the multi-step process of slaughtering. In most slaughterhouses, the major steps are carried out in separate rooms.

In addition, many first processing facilities further process carcasses on-site and/or perform rendering operations. These facilities may also process meat products into prepared foods and feed ingredients for animals (except dog and cat food). Otherwise the carcasses are shipped to other facilities for further processing into finished products such as hams, sausages, ground meat, and canned products.

Based on the 1997 U.S. Census of Manufactures, the animal slaughtering industry sector includes 1,300 companies which operate approximately 1,400 facilities. The industry sector employs 142,000 people and generates a total value of shipments of $54 billion. Twelve States reported shipments in excess of $1 billion, with Texas, California, Illinois, Iowa and Wisconsin containing the largest number of slaughtering establishments (at least 60 establishments in each State). Nebraska ranks seventh in the number of facilities located in the State, but has the highest number of employees engaged in animal slaughtering of any State. Nebraska accounts for almost 17 percent of the value added and 16 percent of total shipments in this industry sector. Industry activity is most heavily concentrated in Nebraska, Kansas, Iowa and Texas.

The Animal Slaughtering sector is comprised of a large number of facilities (72 percent of the sector) which have fewer than twenty employees. These facilities employ less than 5 percent of the sector workforce and contribute an even smaller percentage of value added and value of shipments. Thirty-nine facilities employ between 1,000 and 2,500 employees and while comprising only 3 percent of the total number of establishments, provide 43 percent of the industry employment and 46 percent of the value of shipments.

Meat Processed from Carcasses (NAICS 311612) includes facilities engaged in processing or preserving meat and meat by-products (but not poultry or small game) from purchased meats. These facilities do not slaughter animals or perform any initial processing (*e.g.,* de-fleshing, de-feathering).

The meat further processing industry sector includes 1,164 companies, which own and operate about 1,300 facilities. This sector employs about 88,000 people, and the value of shipments is more than $25 billion, of which $9 billion is value added by manufacture.

California, Illinois, New York and Texas have the highest concentration of meat further processing facilities, each with more than 90 meat further processing facilities. However the highest levels of employment are found in Illinois, Pennsylvania, Texas and Wisconsin, which together generate one-third of the meat further processing employment. In Wisconsin more than half of the meat further processing facilities employ more than 20 workers, and the State also accounts for the largest share of both total shipments and value added in the industry.

As with the animal slaughtering sector, more than half of the meat further processing facilities employ fewer than 20 workers. The bulk of the employment (54 percent), value added (55 percent) and total shipments (57 percent) is accounted for by meat further processing facilities employing between 100 and 500 workers. The difference between the animal slaughtering sector and the meat further processing sector is that while the value of shipments in the animal slaughtering industry sector is heavily concentrated in the largest facilities, the value of shipments in the meat further processing sector is more evenly distributed across meat further processing facilities of all different sizes.

Poultry Processing (NAICS 311615) includes the slaughter of poultry, small game animals (*e.g.,* quails, pheasants, and rabbits), and exotic poultry (*e.g.,* ostriches) and the processing and preparing of these products and their byproducts. The 1997 U.S. Census of Manufactures reported 260 companies engaged in poultry slaughtering. These companies own or operate 470 facilities, employ 224,000 employees, and produces about $32 billion in value of shipments.

The poultry slaughtering sector has relatively few facilities with less than 20 employees but like the meat sectors it is dominated by a few very large facilities. Almost 50 percent of the sector employment and over 40 percent of the value of shipments were accounted for by 75 facilities which employ more than 1,000 workers each. Eighty percent of employment and 74 percent of total shipments are produced by facilities that employ more than 500 workers. Yet

these facilities comprise only 36 percent of the poultry processing industry.

Products produced by the poultry processing sector can be divided into two major categories: broilers and turkeys. Broilers comprise more than half of the industry's shipments. Processed poultry accounts for about 30 percent of this sectors shipments and turkey products accounts for about 12 percent.

Poultry processing is largely concentrated in the southeastern States with Arkansas and Georgia having the largest number of facilities, employment and value of shipments. Alabama and North Carolina rank third and fourth in all of these measures. California is the only State in the top ten poultry producing States which is not in the southeast. California ranks tenth in terms of employment and value of shipments and ranks eighth in number of facilities.

The Rendering and Meat Byproduct Processing (NAICS 311613) sector includes facilities engaged in the rendering of inedible stearin, grease, and tallow from animal fat, bones and meat scraps and the manufacturing of animal oils, including fish oil, and fish and animal meal. Many facilities not classified as rendering facilities perform rendering operations but are not classified as such because they are also engaged in slaughtering (these are often on-site rendering facilities that are part of an animal or poultry slaughtering facility).

The rendering sector consists of 137 companies that own or operate 240 facilities. The sector employs 8,800 workers and generates $2.6 billion in shipments. Texas and California have the largest number of rendering facilities. Unlike the meat or poultry industry sectors, the rendering industry sector includes few large facilities (*i.e.,* only 11 rendering facilities employed more than 100 workers per facility in 1997). The 132 rendering facilities which employ between 20 and 99 workers account for the largest share of the industry shipments (66 percent).

Because the meat and poultry products industry produces products for human consumption (with the exception of rendering), the industry as a whole is very conscious of cleanliness and hygiene. Meat and poultry processing facilities use disinfectants to clean and sanitize equipment between production. The industry reports avoiding the use of pesticides which could contaminate their products, although EPA sampling data did detect several pesticides in raw wastewaters. Water is a very important part of meat products manufacturing as meat products and meat product equipment require acceptable levels of cleanliness. The U.S. Department of Agriculture Food Safety and Inspection Service (USDA FSIS) is responsible for regulating and inspecting meat and poultry slaughtering and processing facilities and facilities engaged in edible rendering (*i.e.,* suitable for human consumption) to ensure food safety. The U.S. Food and Drug Administration (FDA) covers inedible rendering operations which produce products suitable for pet food, animal feed, chemical products, and fuel blending.

Water is used to clean the product, clean and sanitize the production equipment and as a transport mechanism for carrying the waste away from the production area. Water can also be used as a part of the process such as scalding birds to facilitate feather removal or chilling the animal or meat to reduce its temperature. The meat and poultry processing industry (excluding rendering) uses an estimated 150 billion gallons of water per year. The meat and poultry products industry ranks in the top third of all three digit SIC manufacturing sectors with regard to overall water consumption (Docket No. W–01–06, Record No. 10025).

Industry sources have estimated that the implementation of USDA's Hazard Analysis and Critical Control Points (HACCP) program has increased water usage by 20 to 25 percent (Docket No. W–01–06, Record No. 10021). USDA FSIS disagrees with industry's assertion that implementation of HACCP has necessarily required greater use of water (Docket No. W–01–06, Record No.10027). Furthermore, USDA FSIS asserts that its regulatory performance standards provide for numerous water reuse opportunities (*see* 9 CFR 416.2(g)).

Many facilities in the meat and poultry processing sector have employed water reuse programs for many years. Some large facilities even have installed onsite advanced wastewater treatment systems which treat facility effluent allowing this water to be reused for some applications within the facility. Other facilities have changed sanitation practices to reduce water use and effluence in general. For example, one independent renderer noted during an EPA site visit that his facility fully converted from a wet cleaning method to a dry cleaning method in the product shipment area in order to minimize water pollution (Docket No. W–01–06, Record No. 10042). EPA solicits comment on the potential of MPP facilities to reduce water consumption and new technologies or practices that can effectively reuse water.

The majority of facilities in the meat and poultry products industry are indirect dischargers (an estimated 5,298 facilities). There are an estimated 359 facilities which discharge directly to waters of the U.S. and 242 of these are larger facilities which often will have a variety of further processing operations on-site. There are 1,113 facilities which report storing water in on-site lagoons or land applying their wastewater (*see* MPP Development Document).

The untreated wastewater contains high concentrations of BOD_5, TSS, oil and grease, pathogens, especially fecal coliforms and nutrients, including nitrogen (including ammonia) and phosphorus. EPA's sampling data collected from meat and poultry products facilities found treatable concentrations of some metals (*e.g.,* copper and zinc). Some of these metals are fed to the animals as feed additives, which therefore is assumed to be the source for these pollutants in the wastewater.

Treatment for meat and poultry processing wastewater varies depending on whether the facility is a direct or indirect discharger. Direct dischargers generally have biological treatment-in-place; most facilities use a combination of anaerobic and aerobic treatment, they also have nitrification to reduce ammonia concentrations in the effluent. Some facilities have denitrification to reduce nitrogen (nitrate) concentrations, although some facilities have a polishing filter to achieve additional reductions of other suspended pollutants. All facilities use some form of disinfection (*e.g.,* chlorine contact tank, ultraviolet radiation) to destroy or render pathogens inactive. Dissolved Air Flotation (DAF) is also commonly used to reduce oil and grease prior to the biological treatment. The indirect dischargers are mostly removing solids from their effluent through the use of screens or settling basins. Many of the indirect discharge facilities surveyed also report using an equalization basin and DAF to reduce the oil and grease concentrations in their effluent. Industry representatives have indicated that facilities avoid adding flocculants or treatment aids to their wastewaters prior to DAF or settling, because these additives prevent them from sending the sludge to a renderer. EPA identified that raw materials with high concentrations of ferric chloride are also often rejected by independent renderers due to their corrosive nature. EPA solicits comment on other types of flocculants or treatment aids and their concentrations that are commonly not accepted by independent renderers.

EPA also examined the impact of different religious meat and poultry production (*e.g.,* kosher, halal, Buddhist) on raw wastewater characteristics in terms of wastewater flow and pollutant concentrations (Docket No. W–01–06, Record No.10028; Record No. 10029). EPA identified that kosher and halal poultry producers pack the birds (inside and out) in salt for one hour to absorb any residual blood or juices. The birds are then rinsed and shipped to kosher/halal meat distributers. An industry representative reported that on an average day a kosher poultry facility would use 80,000 pounds of salt in their operations with a wastewater generation of approximately 2 million gallons wastewater per day. The industry representative stated that the use of salt makes the kosher poultry wastewaters very different from non-kosher poultry wastewaters with kosher poultry wastewaters having an increased total dissolved solids (TDS) concentration. The industry representative also stated that most kosher operations (meat and poultry) are located in urban areas with sewer connections. EPA also identified that Buddhist and Confucian poultry facilities probably do not exhibit wastewater characteristics that differ from non-religious poultry facilities (Docket No. W–01–06, Record No. 10029). Finally, industry representatives identified that there should be no differences, other than salt content, in MPP wastewater characteristics between kosher or halal and other meat facilities because the main difference between religious and non-religious meat production is the method of slaughter (exsanguination) (Docket No. W–01–06, Record No. Record No. 10031). EPA solicits comment on any other differences in production and wastewater generation and characteristics between non-religious and religious meat and poultry facilities.

V. Summary of Data Collection

A. Secondary Sources of Data and Information

The Agency evaluated the following databases online to locate data and information to support regulatory development: The Agency's PCS database, USDA's Food Safety and Inspection Service's HACCP Databases, USDA's Packers and Stockyards Statistical Report, SEC's EDGAR Database, the 1997 U.S. Census of Manufactures, Dun & Bradstreet Million Dollar Directory and Hoover's database. In addition, the Agency conducted a thorough collection and review of secondary sources, which include data, reports, and analyses published by government agencies; reports and analyses published by the meat and poultry products industry and its associated organizations; and publicly available financial information compiled by both government and private organizations.

EPA used the listings of beef processing facilities from Cattle-Fax, the National Cattlemen's Beef Association, Iowa State University, and North Dakota State University to identify the location of individual beef slaughtering facilities, their parent corporation, and, in some cases, the operational capacity of the individual facility. EPA used the National Pork Producers Council publication to identify the location of hog slaughtering facilities, the name of their parent corporation, and the operational capacity of the facility. EPA used WATT PoultryUSA's publications to locate individual poultry slaughtering facilities, the types of processes at those facilities, and the name of their parent corporation. EPA consulted the American Meat Institute, the National Renderers Association and the U.S. Poultry & Egg Association for lists of all member companies and facilities. The Urner Barry Meat and Poultry Directory 2000 provided information on location, parent company, and types of processes at the facility for all three sectors (Docket No. W–01–06, Record No. 25001).

The documents cited above were all used by EPA in developing the industry profile, a survey sampling frame, and for stratifying the survey sampling frame. In addition to these publications, EPA examined many other documents that provided useful overviews and analysis of the meat processing industry. EPA also conducted general Internet searches by company name.

B. Industry Surveys

EPA developed two survey questionnaires to collect site-specific technical and economic information as the above mentioned sources of information did not have sufficiently detailed technical and economic information required for the development of regulatory options.

EPA published a notice in the **Federal Register** on May 1, 2000 (65 FR 25325) announcing the Agency's intent to submit the meat and poultry products industry Survey Information Collection Request (ICR) to OMB. The May 1, 2000 notice requested comment on the draft ICR and the survey questionnaires. EPA received five sets of comments during the 60 day public comment period. Commentors on the ICR included: National Chicken Council, National Renderers Association, American Meat Institute, BCR Foods, and U.S. Poultry and Egg Association. EPA made minor clarifying revisions to the survey methodology and questionnaires as a result of public comments.

EPA made every reasonable attempt to ensure that the meat and poultry products industry ICR did not request data and information currently available through less burdensome mechanisms. Prior to publishing the May 1, 2000 notice, EPA met with and distributed draft copies of the survey questionnaires to three trade associations representing the meat and poultry products industry (American Meat Institute, National Chicken Council, National Renderers Association). EPA obtained approval from OMB for the use and distribution of two survey questionnaires: a short screener survey and a more detailed survey.

1. Description of the Surveys

In February 2001, EPA mailed a short screener survey, entitled ''2001 Meat Products Industry Screener Survey'' to 1,650 meat and poultry products facilities. A copy of the screener is included in the record (Docket No. W–01–06, Record No. 00178). The screener survey consisted of seven questions that elicited site-specific information such as type of animal processed and processing operation, wastewater disposal method, and the number of full-time employees at the site and company. EPA used the information collected from the screener survey to describe industry operations, wastewater generation rates, and wastewater disposal practices. EPA also used the responses to the site employment question for classifying each facility as small or not-small according to the Small Business Administration regulations at 13 CFR part 121.

EPA designed the second survey to collect detailed site-specific technical and financial information. In March 2001, EPA mailed the second survey, entitled ''2001 Meat Products Industry Survey,'' to 350 meat and poultry products facilities. A copy of the detailed survey is included in the record (Docket No. W–01–06, Record No. 00179). The detailed survey is divided into five parts. The first four parts collect general facility and technical data. The first set of questions request general facility site information. The general facility information questions asked the site to identify itself, characterize itself by certain parameters (including meat and poultry products operations, age, and location), and confirm that it was engaged in meat and/or poultry processing operations.

Respondents also indicated whether they use trisodium phosphate (TSP) as a biocide. Substituting other non-phosphorus based biocides with TSP has the potential to lower overall phosphorus concentrations in the raw wastewater and treated effluent. The second set of questions requested analytical and production data including: (1) Detailed daily analytical and flow rate data for selected sampling points; (2) monthly production data; and (3) operating hours for selected manufacturing operations. Survey respondents were required to provide already obtained sampling data and information. The Agency used the analytical data to estimate baseline pollutant loadings and pollutant removals from facilities with treatment-in-place resembling projected regulatory options and to evaluate the variability associated with meat and poultry products industry discharges. The Agency used the production data collected to evaluate the production basis for applying today's proposed rule in NPDES permits.

The next two sections focus on wastewater characteristics and current treatment practices, respectively. Questions regarding wastewater and treatment were designed to gather: (1) Information on the wastewater treatment systems (including diagrams) and discharge flow rates; (2) analytical monitoring data; and (3) operating and maintenance cost data (including treatment chemical usage). The outfall information questions covered permit information such as: (1) Discharge location; (2) wastewater sources to the outfall; (3) flow rates; (4) regulated parameters and limits; and (5) permit monitoring data. The Agency used this information to calculate the effluent limitations guidelines and standards and pollutant loadings associated with the regulatory options that EPA considered for this proposal. The Agency also used data received in response to these questions to identify treatment technologies in place, to determine the feasibility of regulatory options and potential future subcategorization of the meat and poultry products industry, and to estimate compliance costs, the pollutant reductions associated with the likely technology-based options, and potential environmental impacts associated with the regulatory options EPA considered for this proposal.

The fifth part of the detailed survey elicited site-specific financial and economic data. EPA used this information to characterize the economic status of the industry and to estimate potential economic impacts of wastewater regulations. The financial and economic information collected in the survey was necessary to complete the economic analysis of the proposed effluent limitations guidelines and standards for the meat and poultry products industry. EPA requested financial and economic information for the fiscal years ending 1997, 1998, and 1999— the most recent years for which data are available.

2. Development of Survey Mailing List

EPA sent the two meat and poultry products industry survey questionnaires to a random sample of facilities from the USDA Food Safety and Inspection Service (FSIS) Hazard Analysis and Critical Control Points (HACCP) database and a list of renderers provided by the National Renderers Association (NRA). The HACCP database provided a list of 7,981 federally or State-inspected meat and poultry facilities. The HACCP database is dated March 9, 2000 for the federally inspected facilities and May 10, 2000 for the State-inspected facilities. The entire HACCP database is classified into Large, Small, and Very Small facilities, corresponding to more than 500 employees, 10–500 employees, and less than 10 employees at the facility level, respectively. The 236 renderers from the NRA list were not classified by size. The Urner Barry Meat and Poultry Directory 2000 identified production information (i.e., whether a facility was a slaughterer or further processor) for at least 240 of the 292 large facilities (82 percent) and 1,120 of the 2,381 small facilities (47 percent). No such information was available for the remaining large and small facilities or for any of the 5,308 very small facilities.

3. Sample Selection

EPA grouped the facilities into seven strata by the size and the type of meat and poultry processing operation that takes place in each facility so that each stratum would encompass facilities with similar operations. This grouping (also known as stratification) increases precision (reducing one source of uncertainty) for estimates of costs, benefits and other quantities. Table V.B–1 lists the stratification of the meat and poultry products industry which is based on employment and other information from USDA's HACCP program, Urner Barry Meat and Poultry Directory 2000, and the National Renderers Association.

TABLE V.B–1.—MEAT AND POULTRY PRODUCTS INDUSTRY STRATA

Stratum (No. of employees)	Number of facilities in stratum	Screener survey sample size	Detailed survey sample size
Certainty	65	0	65
Large Processor (≥500)	43	31	3
Large Slaughterer (≥500)	190	100	52
Small Processor (10–499)	1,878	688	62
Small Slaughterer (10–499)	498	130	69
Very Small Processor (<10)	5,308	649	57
Renderer	235	52	42
Total	8,217	1,650	350

Various meat and poultry processors were randomly selected within each grouping. EPA weighted each survey response to account for facilities not surveyed and to develop national estimates from the survey responses. EPA deliberately selected the 65 ''certainty'' facilities to obtain site-specific information on the top producers for all types of meat and poultry products as well as facilities identified as good performers by State and Regional environmental personnel. EPA focused much of its analysis on the characteristics of larger facilities because indirect and direct small facilities as a group (*see* Section III.A.1 for descriptions of ''small facilities'') discharge less than 3% of the conventional pollutants, 1% of the toxic pollutants, 4% of the nutrients, and less

than 1.5% of the pathogens as compared to all discharges from all indirect and direct MPP facilities. Moreover, most of these small facilities are discharging small volumes of wastewater into large urban POTW systems which process significantly higher wastewater volumes, which helps minimize impacts. Thus, there is minimal impact on POTW operations or the passing of MPP pollutants of concern through POTWs into waters of the United States. Consequently, larger facilities were oversampled in the sample design. The oversampling rate is approximately 6:3:1, meaning that the large facilities were sampled at 6 times the rate of the very small facilities, and the small facilities at 3 times the rate of the very small. In addition, many of the very small facilities were not eligible for the survey as they were no longer in operation.

4. Survey Response

Of the 8,217 meat and poultry products facilities generating wastewater, 2,000 facilities were mailed either a detailed survey or a screener survey. As of October 4, 2001, 1,365 of the 1,650 screener surveys and 300 of the 350 detailed surveys were returned to EPA. EPA used 961 of the screener surveys (those received before April 24, 2001) and 241 of the detailed surveys (those received before May 29, 2001) for the development of regulatory options. EPA chose the cut-off dates in order to process, synthesize, and analyze the collected data and develop regulatory options in a timely fashion and still use as much data as possible. EPA will use all surveys, including those collected after the deadlines, in upcoming analyses for the forthcoming Notice of Data Availability (NODA) and final rule.

C. Site Visits and Wastewater Sampling

During 2000 and 2001, EPA conducted site visits at 15 MPP facilities. Six of these site visits were conducted at meat facilities, seven at poultry facilities, and two at rendering-only facilities. The purposes of these site visits were to: (1) Collect information on meat and poultry processing operations; (2) collect information on wastewater generation and waste management practices used by the MPP facilities; and (3) evaluate each facility as a candidate for multi-day sampling. In addition, EPA conducted limited sampling during several of the site visits to screen for potential contaminants that may be found in wastewaters from the different types of meat and poultry processing operations.

In selecting candidates for site visits, EPA attempted to identify facilities representative of various MPP processing operations, as well as both direct and indirect dischargers. EPA specifically considered the type of meat and poultry processing operations, age of the facility, size of facility (in terms of production), wastewater treatment processes employed, and best management practices/pollution prevention techniques used. EPA also solicited recommendations for good-performing facilities (e.g. facilities with advanced wastewater treatment technologies) from EPA Regional offices and State agencies. The site-specific selection criteria are discussed in site visit reports prepared for each site visited by EPA (Docket No. W–01–06, Record No.00156).

During each site visit, EPA collected information on the facility and its operations, including: (1) General production data and information; (2) the types of meat and poultry processing wastewaters generated and treated on-site; (3) water source and use; (4) wastewater treatment and disposal operations; (5) potential sampling locations for wastewater (raw influent, within the treatment system, and final effluent); and (6) other information necessary for developing a sampling plan for possible multi-day sampling episodes. EPA also collected wastewater samples of influent and effluent at 7 of the 15 facilities for screening purposes only.

Based on data collected from the site visits, EPA selected 11 facilities for multi-day sampling. The purpose of the multi-day sampling was to characterize pollutants in raw wastewaters prior to treatment as well as document wastewater treatment plant performance (including selected unit processes). Selection of facilities for multi-day sampling was based on an analysis of information collected during the site visits as well as the following criteria:

- The facility performed meat and/or poultry slaughtering and/or further processing operations representative of MPP facilities;
- The facility utilized in-process treatment and/or end-of-pipe treatment technologies that EPA was considering for technology option selection; and
- Compliance monitoring data for the facility indicated that it was among the better performing treatment systems or that it employed wastewater treatment process for which EPA sought data for option selection.

Multi-day sampling occurred at six meat facilities and five poultry facilities. EPA performed multi-day sampling at two facilities, and nine facilities performed the multi-day sampling on behalf of EPA. For the nine facilities that performed the sampling, EPA developed sampling plans that detailed the procedures for sample collection, including the pollutants to be sampled, location of sampling points, and sample collection, preservation, and shipment techniques. EPA assisted the nine facilities as necessary (e.g., provided sample bottle labels, provided assistance in shipping, and in one instance, provided on-site contractor support during the sampling event).

During each multi-day sampling episode, facility influent and effluent wastestreams were sampled. EPA did not collect source water information but will collect additional source water data after proposal. EPA will use the post-proposal source water data to better characterize wastewater characteristics for each of the facilities sampled. At some facilities, samples were also collected at intermediate points throughout the wastewater treatment system to assess the performance of individual treatment units. Some of the facilities chosen for sampling perform rendering and/or further processing operations in addition to meat and/or poultry processing. For facilities that also performed rendering operations or further processing, wastewater from the rendering and/or further processing operations was sampled separately, when possible.

Sampling episodes were conducted over either a 3-day or 5-day period. Samples were obtained using a combination of 24-hour composite and grab samples, depending upon the pollutant parameter to be analyzed. Depending on the type of wastewater processed and the treatment technology being evaluated, EPA analyzed wastewater for up to 53 parameters including conventional (BOD_5, TSS, oil and grease, fecal coliforms, and pH), toxic (selected metals and pesticides), and nonconventional (e.g., nutrients, microbiologicals) pollutants. When possible for a given parameter, EPA collected 24-hour composite samples in order to capture the variability in the waste streams generated throughout the day (e.g. production wastewater versus clean-up wastewater.)

Data collected from the influent samples contributed to characterization of the industry, development of the list of pollutants of concern, and development of raw wastewater characteristics. EPA used the data collected from the influent, intermediate, and effluent points to analyze the efficacy of treatment at the facilities, and to develop current discharge concentrations, loadings, and

the treatment technology options for the meat and poultry products industry. EPA used effluent data to calculate the long-term averages (LTAs) and limitations for each of the proposed regulatory options. EPA also used industry-provided data from the MPP Survey to complement the sampling data for these calculations. During each sampling episode, EPA also collected flow rate data corresponding to each sample collected and production information from each associated manufacturing operation for use in calculating pollutant loadings and production-normalized flow rates. EPA has included in the public record all information collected for which the facility has not asserted a claim of Confidential Business Information (CBI) or which would indirectly reveal information claimed to be CBI.

EPA used the site visit reports to prepare multi-day sampling and analysis plans (SAPs) for each facility that would undergo multi-day sampling. The Agency collected the following types of information during each sampling episode:

- Dates and times of sample collection;
- Flow data corresponding to each sample;
- Production data corresponding to each sample;
- Design and operating parameters for source reduction, recycling, and treatment; technologies characterized during sampling;
- Information about site operations that had changed since the site visit or that were not included in the Site visit report; and
- Temperature, pH, and dissolved oxygen (DO) of the sampled wastestreams.

After the conclusion of the sampling episodes, EPA prepared sampling episode reports for each facility which included descriptions of the wastewater treatment processes, sampling procedures, and analytical results. EPA documented all data collected during sampling episodes in the sampling episode report for each sampled site which are located in the MPP Administrative Record. Non-confidential business information from these reports is available in the public record for this proposal. For detailed information on sampling and preservation procedures, analytical methods, and quality assurance/quality control procedures see the MPP Development Document for today's proposed rule.

D. Pollutants Sampled and Analytical Methods

The Agency (or facilities, as directed by the Agency) collected, preserved, and transported all samples according to EPA protocols as specified in EPA's Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants and in the MPP QAPP.

EPA collected composite samples for most parameters because the Agency expected the wastewater composition to vary over the course of a day. The Agency collected grab samples from unit operations for oil and grease and microbiologicals. Composite samples were collected either manually or by using an automated sampler. Individual aliquots for the composite samples were collected at a minimum of once every four hours over each 24-hour period. Oil and grease samples were collected every four hours and microbiologicals were collected once a day.

Table V.D–1 lists the parameters sampled at the majority of the facilities, some of which have not been identified as pollutants of concern.

Table V.D–1. MPP Sampled Parameters

Biochemical oxygen demand (BOD_5)
Carbonaceous biochemical oxygen demand ($CBOD_5$)
Dissolved biochemical oxygen demand ($DBOD_5$)
Chemical oxygen demand (COD)
Total organic carbon (TOC)
Total suspended solids (TSS)
Total dissolved solids (TDS)
Total volatile solids (TVS)
Chloride
Total residual chlorine (TRC)
Ammonia as nitrogen
Nitrate/nitrite
Total Kjeldahl nitrogen (TKN)
Total phosphorus (TP)
Total dissolved phosphorus (TDP)
Orthophosphate
Oil and grease
Metals (e.g., arsenic, chromium, copper, mercury, zinc)
Carbamate pesticide (carbaryl)
Permethrin (cis-and trans-)
Malathion
Stirofos
Dichlorvos
Total coliform
Fecal coliform
Escherichia coli
Fecal streptococci
Salmonella
Aeromonas
Cryptosporidium (meat facilities only)

All wastewater sample analyses, except for the field measurements of temperature, dissolved oxygen, and pH were completed by EPA contract laboratories. EPA or facility staff collected field measurements of temperature, dissolved oxygen, and pH at the sampling site. The analytical chemistry methods used, as well as the sample volume requirements, detection limits, and holding times, were consistent with the laboratory's quality assurance and quality control plan. Laboratories contracted for MPP sample analysis followed EPA approved analysis methods for all parameters.

The EPA contract laboratories reported data on their standard report sheet and submitted them to EPA's sample control center (SCC). The SCC reviewed the report sheets for completeness and reasonableness. EPA reviewed all reports from the laboratory to verify that the data were consistent with requirements, reported in the proper units, and the data are in compliance with the applicable protocol.

Quality control measures used in performing all analyses complied with the guidelines specified in the analytical methods and in the MPP Quality Assurance Project Plan (QAPP). EPA reviewed all analytical data to ensure that these measures were followed and that the resulting data were within the QAPP-specified acceptance criteria for accuracy and precision.

Section 304(h) of the Clean Water Act directs EPA to promulgate guidelines establishing test procedures (methods) for the analysis of pollutants. These methods allow the analyst to determine the presence and concentration of pollutants in wastewater, and are used for compliance monitoring and for filing applications for the NPDES program under 40 CFR 122.21, 122.41, 122.44, and 123.25, and for the implementation of the pretreatment standards under 40 CFR 403.10 and 403.12. To date, EPA has promulgated methods for all conventional and toxic pollutants and for several nonconventional pollutants. Table 1–B at 40 CFR 136.3 lists the analytical methods approved for four of the five conventional pollutants and Table 1–A at 40 CFR 136.3 lists the fifth, fecal coliform. Part 136 also sets forth the analytical methods for toxic pollutants. EPA has listed, pursuant to Section 307(a)(1) of the Act, 65 metals and organic pollutants and classes of pollutants as ''toxic pollutants'' at 40 CFR 401.15. From the list of 65 classes of toxic pollutants, EPA identified a list of 126 ''Priority Pollutants.'' This list of Priority Pollutants is shown at 40 CFR part 423, appendix A. The list includes non-pesticide organic pollutants, metal pollutants, cyanides, asbestos, and pesticide pollutants.

Currently approved methods for metals and cyanides are included in the table of approved inorganic test procedures at 40 CFR 136.3, Table I–B. Table I–C at 40 CFR 136.3 lists approved methods for measurement of non-pesticide organic pollutants, and Table I–D lists approved methods for the toxic pesticide pollutants and for other pesticide pollutants. Direct and indirect dischargers must use the test methods approved under 40 CFR 136.3, where available, to monitor pollutant discharges from the meat and poultry products industry, unless specified otherwise in part 432 or by the permitting authority. See 40 CFR 401.13 and 403.12(b)(5)(vi). Sometimes, methods in part 136 apply to only waste streams from specified point source categories. For pollutants with no methods approved under 40 CFR part 136, the discharger must use the test procedure specified in the permit or, in the case of indirect dischargers, other validated methods or applicable procedures. See 40 CFR 122.44(i)(1)(iv) and 403.12(b)(5)(vi).

Table V.D–2 provides a list of analytes from EPA MPP sampling that were analyzed by methods that were not approved at 40 CFR part 136.

TABLE V.D–2: METHODS FOR MPP ANALYTES NOT APPROVED AT 40 CFR PART 136

Analyte	Method	Frequency
Chloride	300.0	77 samples out of 217 samples.
Nitrate/Nitrite	300.0	62 samples out of 217 samples.
Total Orthophosphate	300.0	77 samples out of 217 samples.
Carbaryl	632	all samples.
Dichlorvos	1657	all samples.
Malathion	1657	all samples.
Tetrachlorvinphos (stirofos)	1657	all samples.
cis-Permethrin	1660	all samples.
trans-Permethrin	1660	all samples.
E. coli	9221F	all samples.
Aeromonas	9260L	all samples.
Salmonella	FDA–BAM	all samples.
Metals	1620	all samples.

The use of Method 300.0 for chloride, nitrate/nitrite, and total orthophosphate was necessary because the analytical methods normally used for these analytes are subject to interferences such as color, turbidity, and/or particulates. These interferences were sometimes present in the samples, given the difficult matrices associated with the meat and poultry products industry (samples that contain blood, animal tissue, and/or other particulates). Laboratories used Method 300.0 for those samples that contained the interferents, which were a subset of the samples collected, as shown in the table above under the ''Frequency'' column.

The pesticides carbaryl, cis-permethrin, trans-permethrin, dichlorvos, and tetrachlorvinphos (stirofos) are not included in Table 1D-List of Approved Test Procedures for Pesticides at 40 CFR Part 136. Therefore, there are no 40 CFR Part 136-approved methods for these analytes. However, the methods are approved for compliance monitoring of these pollutants in the Pesticide Chemicals Point Source Category (*see* Table 7 in 40 CFR part 455). [Note: Method 1660 is approved for permethrin; however, cis-permethrin and trans-permethrin are structurally similar to permethrin.] There is one approved method for malathion at 40 CFR part 136: Standard Method 6630C. EPA Method 1657 was selected for analysis of malathion instead, for a couple of reasons, including:

- EPA 1600-series methods were developed specifically for the effluent guidelines program; therefore, they have more stringent quality control requirements than Standard Methods; and
- Method 1657 is approved for compliance monitoring of malathion in the pesticide chemical point source category (see Table 7 in 40 CFR part 455).
- Two other parameters were analyzed using EPA Method 1657 in addition to malathion [dichlorvos and tetrachlorvinphos (stirofos)]. Performance of one method for three analytes was the most economical approach.

The biological parameters *E.coli,* Aeromonas, and *Salmonella* are not listed at 40 CFR part 136. Therefore, there are no 40 CFR part 136-approved methods for these analytes, however, EPA proposed methods for *E.coli* on August 30, 2001 (66 FR 169, pages 45811–45829). Metals were analyzed using EPA Method 1620 because this method was developed specifically for the effluent guidelines program and contains more stringent quality control requirements than other 40 CFR part 136-approved methods.

E. Other Data Collection

EPA conducted a number of other data collection efforts to supplement information gathered through the survey process, facility sampling activities, site visits, and meetings with industry experts and the general public. The main purpose of these other data collection efforts was to obtain information on documented environmental impacts of meat and poultry processing industry facilities, additional data on animal processing waste characteristics, pollution prevention practices, wastewater treatment technology innovation, and facility management practices. These other data collection activities included a literature search, a review of current NPDES permits, and NPDES Discharge Monitoring Reports.

1. Literature Search on Environmental Impacts

EPA conducted a literature search to obtain information on various aspects of the animal processing industry, including documented environmental impacts, wastewater treatment technology, waste generation and facility management, and pollution prevention. EPA performed extensive internet and library searches for applicable information. The Agency used the resources of its own environmental library and the U.S. Department of Agriculture's National Research Library to obtain technical articles on environmental issues relating to the animal processing industry. Several university libraries and industry experts were also consulted during the literature search. As a result, EPA was able to compile a list of environmental impacts associated with the meat and

poultry processing industry. The scope of the literature search included government reports of permit violations and any associated environmental impacts. EPA also compiled technical studies on innovative treatment technologies for meat and poultry processing wastewater. EPA has included a summary of the case studies in the public docket (Docket No. W–01–06, Record No. 00167) associated with today's proposal. The primary sources for the case studies include newspaper and technical journal articles, government reports, and papers included in industry and academic conference proceedings.

2. Current NPDES Permits

EPA extracted information from the Agency's Permit Compliance System (PCS) to identify meat and poultry processing industry point source dischargers with NPDES permits. This initial extraction was performed by searching the PCS using reported Standard Industrial Classification (SIC) codes used to describe the primary activities occurring at the site. Specifically, the following SIC Codes were used:

- 2011 Meat Packing Facilities.
- 2013 Sausages and Other Prepared Meats.
- 2015 Poultry Slaughtering and Processing.
- 2077 Animal and Marine Fats and Oils.

EPA identified 359 active meat and poultry product facilities with NPDES permits in the PCS database. The PCS estimate of MPP direct dischargers is approximately equivalent to the screener survey estimate of direct dischargers. EPA will refine its estimates of direct dischargers to incorporate information from both the PCS database and the screener survey.

EPA selected a sample from this universe of dischargers. The Agency then reviewed NPDES permits and permit applications to obtain information on treatment technologies and wastewater characteristics for each of the animal processing and rendering sectors. EPA used this information as part of its initial screening process to identify the universe of processing facilities that would be covered under the proposal. In addition, this information was used to better define the scope of the information collection requests and to supplement other information collected on meat and poultry processing waste management practices.

3. Discharge Monitoring Reports

In addition, the Agency collected long-term effluent data from facility Discharge Monitoring Reports (DMRs) via the PCS database in an effort to perform a ''real world'' check on the achievability of today's proposed limits. DMRs summarize the quality and volume of wastewater discharged from a facility under a National Pollution Discharge Elimination System (NPDES) permit. DMRs are critical for monitoring compliance with NPDES permit provisions and for generating national trends on Clean Water Act compliance. DMRs may be submitted monthly, quarterly, or annually depending on the requirements of the NPDES permit.

EPA extracted discharge data and permit limits from these DMRs (via the PCS database) and from the MPP surveys to help identify regulated pollutants, to identify better performing facilities, and to set limitations in a few cases where sampling data was not available. Specifically, EPA identified the amount of discharged ammonia in relation to the respective permit limits. EPA conducted this analysis in part to identify potential facilities for future sampling as well as to assist in identifying a selection of facilities for the certainty component of the detailed survey exercise, and limitations were set for TSS, Oil and Grease(HEM) and COD based on DMR data from the MPP surveys.

EPA was able to collect DMR information on a total of 176 facilities from four MPP sectors: 77 meat packing facilities; 17 facilities producing sausages and other prepared meat products; 65 poultry slaughtering and processing facilities; and 17 animal and marine fat and oils facilities. EPA collected 31,311 data points on 83 separate pollutant parameters.

Indirect dischargers file compliance monitoring reports with their control authority (e.g., POTW) at least twice per year as required under the General Pretreatment Standards (40 CFR 403) while direct dischargers file discharge monitoring reports with their permitting authority at least once per year. EPA did not collect compliance monitoring reports for MPP facilities that are indirect dischargers as: (1) A vast majority of MPP indirect dischargers are small facilities (i.e., small volumes of wastewater); and (2) this information is less centralized and harder to collect.

Because DMR and indirect discharger compliance monitoring reports do not provide information about processes and production, EPA was not able to use these data directly in calculating the limitations and standards. Instead, in the detailed survey, EPA requested that facilities provide the individual daily measurements from their monitoring (for DMR or the control authority) with detailed information about their treatment systems and processes. After further evaluation of the detailed surveys, EPA intends to use the self-monitoring data corresponding to the proposed treatment options to calculate the final limits and to reassess the achievability of the limits by well-operated BAT systems. In cases where EPA determines that improved system operation will allow the limits to be consistently achieved it will include additional treatment costs for the facility in its cost estimations for the final rule where EPA has not already done so. EPA concludes, in following the approach described above, that it will address issues related to the achievability of the numerical limits by well-operated and economically achievable treatment systems. EPA solicits comments on this method of performing a ''real world'' check on the achievability of its proposed limits.

F. Summary of Public Participation

EPA encouraged the participation of all interested parties throughout the development of the proposed meat and poultry products effluent limitations guidelines and standards. EPA conducted outreach to the following trade associations (which represent the vast majority of the facilities that will be affected by this guideline): American Meat Institute (AMI), American Association of Meat Processors (AAMP), National Renderers Association (NRA), U.S. Poultry and Egg Association, and National Chicken Council. EPA met on several occasions with various industry representatives to discuss aspects of the regulation development. EPA also participated in industry meetings and gave presentations on the status of the regulation development. EPA also met with environmental groups including the Natural Resources Defense Council concerning this proposal.

EPA met with the industry associations and environmental groups and representatives from State and local governments when this industry was first identified as a candidate for rulemaking to seek their opinions on the issues that the Agency should consider as it moved forward for rulemaking.

In the development of the surveys which were used to gather facility specific information on this industry, EPA consulted with the industry groups and several of their members to ensure that the information being requested was asked for in such a way as to be

understandable and that it would be available in the form requested.

EPA conducted site visits to 15 facilities: 6 meat processors, 7 poultry processors and 2 independent rendering facilities and conducted sampling at 11 facilities which provided samples from slaughtering operations, first and further processing and rendering. The facilities visited and sampled were identified by industry experts and State or EPA regional personnel as exemplifying the best performance and treatment in the industry.

EPA also met with representatives from USDA to discuss this regulation and how it might be affected or affect requirements on the meat and poultry processing industry implemented by the Food Safety and Inspection Service of USDA. EPA has met with representatives from State and local governments to discuss their concerns with meat and poultry processing facilities and how EPA should approach these facilities in regulation.

VI. Subcategorization

A. Factors Considered in Developing Proposed Subcategories

The CWA requires EPA, when developing effluent limitations guidelines and pretreatment standards, to consider a number of different factors. For example, when developing limitations that represent the best available technology economically achievable for a particular industry category, EPA must consider, among other factors, the age of the equipment and facilities in the category, location, manufacturing processes employed, types of treatment technology to reduce effluent discharges, the cost of effluent reductions and non-water quality environmental impacts. See Section 304(b)(2)(B) of the CWA, 33 U.S.C. 1314(b)(2)(B). The statute also authorizes EPA to take into account other factors that the Administrator deems appropriate and requires the BAT model technology chosen by EPA to be economically achievable, which generally involves consideration of both compliance costs and the overall financial condition of the industry. EPA took these factors into account in considering whether to establish subcategories and found that dividing the industry into subcategories leads to better tailored regulatory standards, thereby increasing regulatory predictability and diminishing the need to address variations among facilities through a variance process. See *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1053 (D.C. Cir. 1978).

EPA used industry survey data and EPA sampling data for the subcategorization analysis. Various subcategorization criteria were analyzed for trends in discharge flow rates, pollutant concentrations, and treatability to determine where subcategorization was warranted. Equipment and facility age and facility location were not found to impact wastewater generation or wastewater characteristics; therefore, age and location were not used as a basis for subcategorization. An analysis of non-water quality environmental characteristics (*e.g.,* solid waste and air emission effects) showed that these characteristics also did not constitute a basis for subcategorization (*see* Section X).

Even though size (*e.g.,* acreage, number of employees, production rates) of a facility does not have an influence on production-normalized wastewater flow rates or pollutant loadings, size was used as a basis for subcategorization because more stringent limitations would not be cost effective for smaller poultry facilities (*see* Sections III.A.1 and III.B for definition of ''small'' and ''non-small'' facilities for each subcategory). See Section III.A.1 for a description on how and why EPA established production based standards for small MPP facilities.

EPA also identified types of meat products manufacturing processes (*e.g.,* slaughtering, further processing, rendering) as a determinative factor for subcategorization due to variations in production-normalized wastewater flow rates (PNFs) and estimated pollutant loadings. For meat facilities: the PNF for slaughtering is 322.8 gal/1000 lb. Live Weight Killed; the PNF for further processing 555.4 gal/1000 lb. Finished Product; the PNF for meat cutters in subcategory F only is 130.4 gal/1000 lb. Finished Product; and the PNF for rendering is 346.0 gal/1000 lb. Raw Material. For Poultry facilities: the PNF for slaughtering is 1,289 gal/1000 lb. Live Weight Killed; the PNF for further processing is 315.7 gal/1000 lb. Finished Product; and, the PNF for rendering is 346.0 gal/1000 lb. Raw Material.

Most slaughtering operations utilize significant amounts of water to process an animal. Slaughtering operations generally involve taking the live animal and producing whole or cut-up meat carcasses (which are then further processed). Wastewaters from slaughtering operations are generated from a variety of sources that generally include the areas where animals are killed and bled, hides or feathers are removed, animals are eviscerated, carcasses are washed and chilled, and areas where carcasses are trimmed and cut to produce the whole carcasses or carcass parts. As a result of these operations, wastewaters are generated that contain varying levels of blood, animals parts, viscera, fats, bones, etc. In addition, federal food safety concerns require frequent and extensive clean-up of slaughtering operations, which also contributes to wastewater generation. These clean-up wastewaters will contain not only slaughtering residues and particulate matter, but also contain products used for cleaning and disinfection (detergents and sanitizing agents).

Alternatively, most further processing operations generate wastewaters from sources different than slaughtering operations. These sources, and the resulting wastewater characteristics, are highly dependent on the type of finished product desired. Further operations can include, but are not limited to, cutting and deboning, cooking, seasoning, smoking, canning, grinding, chopping, dicing, forming or breading. Unlike slaughtering operations, most further processing operations, except for clean-up, do not utilize significant amounts of water. Wastewaters generated from further processing operations will contain some further processing residues and particulate matter (e.g., breading, spices, etc.), as well as products used for cleaning and disinfection (detergents and sanitizing agents).

Rendering operations are used primarily to process slaughtering by-products (e.g., animal fat, bone, blood, hair, feathers, dead animals, etc.). The amount of water used and the characteristics of wastewater generated by rendering operations are highly dependent on a number of factors, including the type of product desired (e.g., edible v. inedible), the rendering process used (batch v. continuous; wet process v. dry process), and the source and type of raw materials used (e.g., poultry processors, slaughterhouses, butcher shops, supermarkets, restaurants, fast-food chains, farms, ranches, feedlots, animal shelters, etc.). In general, rendering operations involve cooking the raw materials to recover fats, oil, and grease; remaining residue is dried and then granulated or ground into a meal. A significant portion of wastewater pollutant loadings generated from rendering operations is condensed steam from cooking operations. Unlike slaughtering and further processing operations, rendering clean-up operations are generally less rigorous, generating a smaller proportion of the total expected wastewater flow.

The following section describes the proposed meat and poultry products industry subcategorization.

B. Proposed Subcategories

In today's notice, EPA proposes to keep the current subcategorization scheme for small facilities, but for larger facilities, we are proposing new limitations and collapsing the existing subcategories. Specifically, EPA proposes new limitations and standards that are the same for facilities in the following MPP subcategories: Simple Slaughterhouses (subpart A); Complex Slaughterhouses (subpart B); Low-Processing Packinghouses (subpart C); and High-Processing Packinghouses (subpart D). Also, EPA proposes new limitations and standards that are the same for facilities in the following MPP subcategories: Meat Cutters (subpart F); Sausage and Luncheon Meats Processors (subpart G); Ham Processors (subpart H); and Canned Meats Processors (subpart I). EPA is also retaining the Renderers (subpart J) subcategory and proposing new limitations and standards for facilities in this subcategory. This proposal does not revise the existing limitations and standards for smaller facilities in subparts A–J (*see* Section III.A.1). Finally, EPA proposes adding two MPP subcategories in 40 CFR part 432: Poultry First Processing (subpart K) and Poultry Further Processing (subpart L). These two new subcategories will cover both small and larger poultry processing facilities, although, the smaller facilities in each of the subcategories are required to meet less stringent requirements than larger poultry facilities (*see* Section III.B and Table III.B–1). EPA chose less stringent limitations for smaller poultry processing facilities because more stringent limits would not be cost effective for smaller poultry facilities (*see* Section III.A.1).

Each subcategory is described in more detail immediately below in terms of its manufacturing processes and wastewater characteristics. All subcategories are further segmented based on the amount of meat and poultry products they slaughter, further process or render.

1. Meat Slaughterhouses and Packinghouses—Subparts A, B, C and D

EPA is proposing to retain the existing subcategories. EPA is not proposing to revise the existing BPT requirements for facilities which slaughter 50 million pounds per year or less for the reasons described in Section III.A.1. of this notice. Since the existing limitations for smaller meat facilities (which EPA believes should be maintained) are different for each of the subcategories, the subcategories themselves are being maintained. EPA believes that retaining the existing subcategorization scheme will simplify implementation for the permit writers as well as generate appropriate limitations and standards for the facilities. EPA requests comments on this approach.

The proposed regulation would require all meat direct dischargers that slaughter more than 50 million pounds live weight per year to achieve the same production-based effluent limitations. EPA finds that the slaughtering and initial processing operations found in all four of these subcategories are the key factors in determining wastewater characteristics and treatability. Moreover, EPA believes there are no significant differences between these four subcategories in terms of age, location, and size of facilities. In addition to slaughtering and initial processing, EPA is proposing to establish allowances to account for the additional processes that may also occur on-site. The proposed effluent limitations guidelines would provide allowances for discharges from each of the following processes: slaughtering (which includes initial processing), further processing, and rendering. These allowances would be the same for all four subcategories and are related to the volume of production as follows: The amount of live weight killed for the slaughtering process, the amount of finished product that is further processed on site, and the amount of raw material that is rendered on-site.

Because of the similarities in wastewater characteristics across all meat slaughter and packinghouses, EPA also requests comment on an alternate approach to subcategorizing the meat slaughtering sector. This alternative would incorporate all meat slaughtering activities in one subcategory. This subcategory would retain the individual BPT allowances for simple and complex slaughterhouses and low and high processing packinghouses for facilities which slaughter 50 million pounds or less per year.

2. Meat Further Processing—Subparts F, G, H and I

The proposed subcategorization scheme requires all facilities that generate more than 50 million pounds per year of meat finished products without performing slaughtering to be regulated by the same production-based effluent limitations guidelines (*see* Section III). The limitations guidelines allow discharges based on the amount of finished product that is further processed on site. The wastewater characteristics and treatability for three of the four subcategories are sufficiently similar to group them together for the purpose of revising or setting new limitations and standards. However, subpart F limitations will be based on a lower production-normalized flow than subpart G, H and I limitations because subpart F facilities generate substantially less water per pound of finished product than the other three subparts. Moreover, EPA believes there are no significant differences between these four subcategories in terms of age, location, and size of these MPP facilities. EPA believes that this subcategorization scheme will simplify implementation for the permit writers as well as generate appropriate limitations and standards for the facilities.

3. Renderers—Subpart J

Subpart J applies to independent rendering facilities which are facilities that only render raw materials and process hides and do no first or further processing. The proposed subcategorization scheme requires all independent rendering facilities that render more than 10 million pounds per year of raw material to be regulated by the same production-based effluent limitations guidelines. This is a change from the current guidelines, which only apply to independent renderers that render more than approximately 27.4 million pounds raw material per year (or 75,000 pounds raw material per day for a facility that operates 365 days per year). See Section III.A.1 for a description on how and why EPA established production based standards for small MPP facilities. The limitations and standards allow discharges based on the amount of raw material that is rendered on site.

4. Poultry First Processing—Subpart K

EPA divided the poultry first processors into two segments: Small and not-small (*see* Table III.B–1). Small poultry first processors slaughter 10 million pounds of poultry per year or less while non-small poultry first processors slaughter more than 10 million pounds of poultry per year. See Section III.B for a description on how and why EPA established production based standards for small poultry processing facilities. EPA is proposing that the technology-based effluent limitations guidelines for small poultry first processors (both new and existing) be based on the less efficient nitrification technology option (Direct Option 1). EPA is proposing that the technology-based effluent limitations guidelines for non-small poultry first processors (both new and existing) be

based on the nitrification/denitrification technology option (Direct Option 3). See Section VII.D for a discussion of the technology options. See the MPP Development Document and MPP Economic Analysis for more details on how EPA developed the two segments and specific requirements for each segment.

The effluent limitations guidelines allow discharges for all activities that may be performed on-site including further processing and rendering based on: (1) The amount of live weight killed; (2) the amount of finished product that is further processed on site; and (3) the amount of raw material that is rendered on site.

5. Poultry Further Processing—Subpart L

EPA divided the poultry further processors into two segments: small and non-small. Small poultry further processors generate 7 million pounds of finished product per year or less while non-small poultry further processors generate more than 7 million pounds of finished product per year. See Section III.B for a description on how and why EPA established production based standards for small poultry processing facilities. EPA is proposing that the technology-based effluent limitations guidelines for small poultry further processors (both new and existing) be based on a less efficient nitrification technology option (Direct Option 1). EPA is proposing that the technology-based effluent limitations guidelines for non-small poultry further processors (both new and existing) be based on the nitrification/denitrification technology option (Direct Option 3). See Section VII.D for a discussion of the technology options. See the MPP Development Document and MPP Economic Analysis for more details on how EPA developed the two segments and specific requirements for each segment. The effluent limitations guidelines allow discharges based on the amount of finished product that is produced on site and also include provisions for those poultry further processors that perform on-site rendering operations.

VII. Technology Options, Costs, Wastewater Characteristics, and Pollutant Reductions

A. Wastewater Treatment Technologies in the MPP Industry

EPA developed a series of technology option alternatives for the proposed rule based on the volumes and characteristics of wastewater generated at MPP facilities and the types of treatment technologies currently used by the industry to treat these wastewaters. Evaluation and selection of technology options was based primarily on information provided in the MPP detailed surveys (*see* Section V.B for a description of the MPP detailed survey.) The detailed surveys requested extensive data on wastewater characteristics, including both raw and treated wastewasters, treatment-in-place technologies, as well as information on production processes. The technology options presented in today's proposal are based on various factors including, but not limited to, the frequency of occurrence, technical performance of unit processes in reducing pollutant loads, and economic achievability.

Because of the similarities in the physical and chemical characteristics of the wastewaters, there are virtually no differences between the meat and poultry sectors in the types of treatment technologies used. The unit processes that are used in treatment of meat and poultry processing wastewater are also similar to that normally used in the treatment of domestic wastewater. The wastewater treatment falls into three main categories: primary treatment, secondary treatment, and tertiary treatment. Primary treatment focuses on the removal of floating and settleable solids; secondary treatment provides removal of most organic matter; and tertiary treatment is used for the removal of nitrogen and/or phosphorus and/or suspended solids. Meat and poultry processing facilities that discharge to a publicly owned treatment works (POTW) typically employ only primary treatment; however, some facilities also provide secondary treatment. Facilities that discharge directly to navigable waters under the authority of a National Pollutant Discharge Elimination System (NPDES) permit, at a minimum apply both primary and secondary treatment. Many direct dischargers also apply tertiary treatment to wastewater discharged under the NPDES permit system.

A variety of unit processes are used by MPP facilities to provide primary, secondary, and tertiary wastewater treatment. Table VII.A–1 summarizes the relative frequency of treatment units used in the industry, based on a preliminary assessment of information provided in the detailed survey. The unit processes most commonly used for the treatment of meat and poultry processing wastewater are described below.

TABLE VII.A–1.—DISTRIBUTION OF WASTEWATER TREATMENT UNITS IN MPP INDUSTRY

Treatment category	Treatment unit	Percent of direct/indirect discharging facilities having the treatment unit in place	
		Direct Discharger (percent)	Indirect Discharger (percent)
Primary treatment	Screen	98	64
	Oil and Grease Removal	83	77
	Dissolved Air Floatation	81	46
	Flow Equalization	75	34
Secondary and Tertiary Treatment	Biological Treatment [1]	100	13
	Filtration	23	0
	Disinfection	92	0

Note 1: Biological Treatment includes any combination of the following: aerobic lagoon, anaerobic lagoon, facultative lagoon, any activated sludge process, and/or other biological treatment processes (*e.g.,* trickling filter).
Source: Detailed Survey Data.

1. Primary Treatment

MPP industry raw wastewaters have high levels of suspended solids and high concentrations of BOD. Most MPP facilities, whether they are direct or indirect dischargers employ some sort of primary treatment to remove floating and settleable solids. The typical unit processes used for primary treatment are

screens followed by dissolved air flotation (DAF) and flow equalization tanks. Some facilities use chemicals to improve suspended solids and biochemical oxygen demand (BOD) removal. Primary treatment serves to reduce suspended solids and BOD loads to subsequent unit processes. Primary treatment can also be used to recover materials that can be converted into marketable products through rendering.

Screening is typically the first and most inexpensive form of primary treatment. Screening removes large solid particles from the waste stream that could otherwise damage or interfere with downstream equipment and treatment processes. Generally all wastewater generated in meat and poultry processing facilities is screened before discharge to subsequent treatment processes. In poultry processing facilities, use of screens aids in recovery of both feathers and offal (viscera and meat particles), that are valuable by-products for the poultry rendering industry. In meat processing facilities, screening is generally limited to processing and cleanup water since viscera (usually) is not transported hydraulically.

Dissolved air flotation (DAF) is also used extensively in the primary treatment of meat and poultry processing wastewater to remove suspended solids. The principal advantage of DAF over gravity settling is the ability to remove very small or light particles including grease more completely and in a shorter period of time. Once particles have been floated to the surface, removal is done by skimming. Chemicals, including, aluminum or iron salts or synthetic organic polymers are often added to improve the performance of DAF units.

Most meat and poultry processing facilities operate on a five-day per week schedule, resulting in a weekly variation of wastewater flow (and load). Also, during the operation of the facilities, daily fluctuation in the wastewater flow (and load) is very common. Flow equalization tanks are used to eliminate the need for sizing subsequent treatment units to handle peak flows and to provide continuous constant flow (and load) to the subsequent treatment units, in-line flow.

2. Secondary Biological Treatment

Because MPP wastewaters have a high organic content, it is not usually possible for a direct discharger to meet permit limits without employing secondary treatment. Although effective primary treatment can significantly reduce the BOD load of a MPP facility, typically more organic removal is necessary prior to discharge into a receiving water body. This additional removal can be accomplished through secondary biological treatment. Commonly used systems secondary biological treatment of wastewater include activated sludge systems, lagoons, oxidation ditch, extended aeration, and sequencing batch reactors. In addition, a sequence of anaerobic and aerobic biological processes is commonly used for secondary treatment.

Anaerobic lagoons are the most commonly used anaerobic unit processes. Five-day biochemical oxygen demand (BOD_5) reductions by anaerobic lagoons can be as high as 90 percent.

In the treatment of meat and poultry processing wastewaters, aerobic treatment may directly follow primary treatment or more typically follow some form of anaerobic treatment to reduce BOD and suspended solids concentrations to levels required for direct discharge. Aerobic processes can also remove more than 90 percent of the influent BOD_5. In addition, the aerobic systems partially nitrify the wastewater by converting ammonia to nitrates. Based on detailed survey responses all the direct discharging MPP facilities employ at least some kind of aerobic treatment prior to discharging the final effluent. The most common aerobic treatments units used by MPP facilities are activated sludge, aerated lagoons, oxidation ditch, extended aeration, and sequencing batch reactors.

3. Tertiary Treatment

Some MPP facilities also employ tertiary treatment to obtain further removal of suspended solids and to reduce nutrient loadings, especially nitrogen and phosphorus levels. Although, primary and secondary treatment significantly reduce BOD, suspended solids, and nitrogen compounds (*e.g.,* ammonia), tertiary treatment can provide significant further removals of nitrogen (conversion of nitrates to nitrogen gas) and especially phosphorus, which is not significantly addressed by most secondary biological treatment systems.

Nitrogen can be largely eliminated from the wastewater by the combined nitrification and denitrification process. Nitrates formed during the nitrification process in secondary treatment are converted to nitrogen gas in the anoxic denitrification unit. Normally, the denitrification unit is placed before the nitrification unit to utilize the influent BOD as the carbon source for denitrification. The nitrates formed in the nitrification unit are recycled to the denitrification unit. Bardenpho process, sequencing batch reactors, extended aeration, and oxidation ditch are commonly used for denitrification. Very few facilities in the industry have biological phosphorous removal systems. A biological phosphorous removal system consists of an anaerobic tank before the nitrification and denitrification system. The system can achieve a very low effluent concentration of phosphorous.

Simple clarification after secondary wastewater treatment may not reduce the concentration of suspended solids to the desired level. Therefore, filtration systems are used to reduce the effluent concentration of suspended solids. During the filtration cycle, wastewater is passed through a bed of granular media which traps the suspended solids thus producing high quality effluent. The filtration unit is regenerated periodically by backwashing. Filtration units use various types of media as filter bed. The sand filtration systems are most commonly found in the industry.

The final step in the treatment of meat and poultry processing wastewaters is disinfection with the objective of destroying remaining pathogenic microorganisms. Disinfection systems are found in the majority of the direct dischargers; very few (if any) indirect dischargers disinfect their wastewater because of additional treatment at the POTW accomplishes the pathogen destruction.

B. Wastewater Sources, Water Use, and Wastewater Characteristics

1. Meat Products Facilities

a. Wastewater Sources and Water Use

Most steps in the slaughtering process generate pollutants that flow into wastewater. Animal urine and fecal matter, and hair, which accumulate in the animal holding pens are washed down into floor drains, and subsequently enter the wastewater stream. Significant amounts of blood are generated in the stunning and killing areas. Although it is usually saved for rendering purposes, some blood often enters wastewater. Blood, in addition to other meat and tissue waste and hide particles, is generated during cattle de-hiding. These particles also can contaminate water if they are not collected properly. Wastewater from both the scalding tub and the de-hairing machine can contain hair, soil, mineral oil and manure. BOD levels from these areas can be as high as 3,000 mg/L. Additional blood and tissue pieces can be produced during the evisceration process. Large amounts of wastewater typically come from washing carcasses. This water contains high levels of

grease, and small amounts of blood, tissue solids, and other fluids. As carcasses are cut into smaller pieces, small pieces of tissues and fluids can enter wastewater. At the end of each day, equipment is cleaned and sanitized. This washdown contains bone dust and other fluids such as blood and cleaning fluids (Docket No. W–01–06, Record No. 00132).

Facility clean up and sanitation can contribute significantly to the overall volume and pollutant load for meat first and further processing facilities. The volume and pollutant load of this wastewater varies significantly from facility to facility, and is dependent on several factors including efficiency of processing facility, housekeeping practices, the extent to which dry cleaning processes are used, and the volume of water used in washing facility equipment. Improper use of water hoses, for example, could lead to unnecessary use of water and result in the production of excess wastewater.

Industrial practices within the meat further processing industry sector are diverse and produce variable waste loads. Meat further processing facilities purchase animal carcasses, meat parts, and other materials and produce sausages, cooked meats, cured meats, smoked meats, canned meats, frozen and fresh meat cuts, natural sausage casings, and other prepared meats and meat specialties. None of these facilities engage in any slaughtering on the same premises as the processing activity.

The product mix of these facilities includes many combinations of products. There are facilities that specialize in one or two types of processed meats products, such as hams, fresh sausages, canned meat products, or meat cuts, and facilities that produce a number of products up to the full line of processed meat products. Meat further processing operations include:

- Raw material storage, shipping, receiving, and thawing (wet, dry, chipping);
- Carcass/meat handling and preparation (breaking, trimming, cutting, boning, tempering, skinning, slicing);
- Seasoning, spicing, and sauce preparation;
- Weighing and batching;
- Grinding, mixing, emulsifying;
- Extruding, stuffing, molding, linking, casing peeling;
- Pickling, smoking, cooking;
- Can preparation, filling, covering, and retorting; and
- Cleanup operations.

Many of these operations contribute to the raw waste load of a meat further processor. Wastewater from these operations generally contain meat, fat, and bone particles as well as soluble constituents such as salts, blood, and pickling, preserving, and preparation materials (e.g., sugar, sodium nitrite and nitrate, spices). Current MPP effluent guidelines divide the meat further processors into five separate industry groups: Small Processors (40 CFR part 432, subpart E); Meat Cutters (40 CFR part 432, subpart F); Sausage and Luncheon Meat Processors (40 CFR part 432, subpart G); Ham Processors (40 CFR part 432, subpart H); and Meat Canners (40 CFR part 432, subpart I).

Small processors, defined as operations producing up to 2730 kilograms (6000 pounds) per day of any type or combination of meat product, are currently regulated under subpart E of 40 CFR part 432. They may produce a wide range of products but most of the these facilities prepare fresh meat cuts, sausage and wieners, and hams. The wastewater source for this subcategory is generally from cleanup and sanitation operations (approximately 50–90 percent of total wastewater flow). The scale of production and the typically limited finished product mix preclude the need for substantial quantities of water during the production day.

Further processors that produce more than 6,000 pounds of meat cuts as finished products per day (i.e., non-small processors) are currently regulated under subpart F of 40 CFR part 432. These facilities require virtually no process water but do generate wastewaters during cleanup and sanitation operations. Facilities in this industry grouping generally break, trim, and cut the large meat parts into single-portion meat cuts. Very little equipment (other than saws, knives and work surfaces) comes in contact with the meat products. The relative simplicity of operation and equipment results in small quantities of process water and a small waste load in the cleanup water.

Sausage and luncheon meat processors that produce more than 6,000 pounds of finished product per day (i.e., non-small processors) are currently regulated under subpart G of 40 CFR part 432. These facilities have an extensive product mix and tend to require more intensive meat processing (e.g., seasoning, cuttings, molding, packing) than meat cutters. Wastewater sources include meat processing and cleanup operations.

Ham processors that produce more than 6,000 pounds of finished product per day (i.e., non-small processors) are currently regulated under subpart H of 40 CFR part 432. These facilities produce hams and other ham-related products. The operations involved in ham production use more water than the typical meat processing operations; and because of the direct water-ham contact, the wastewater load is increased. Ham processors rely on pickling, preserving, and preparation materials (e.g., sugar, sodium nitrite and nitrate, spices) to cure and prepare the ham products. The production operations and cleanup in the rest of the ham processing facility is fairly comparable in both practice and resulting waste load to that of the sausage and luncheon meat processors.

Meat canners that produce more than 6,000 pounds of finished product per day (i.e., non-small processors) are currently regulated under subpart I of 40 CFR part 432. These facilities generally require a number of processing steps such as size reduction, mixing and blending, and cooking. These operations require special equipment and generate more wastewater flows and pollutant loading than other meat further processors per pound of finished product. Meat canners also use pickling, preserving, and preparation materials (e.g., sugar, sodium nitrite and nitrate, spices) to cure and prepare the canned meat products.

b. Wastewater Characterization

Organic materials are the primary sources of pollutants in meat first and further processing wastewater. These substances cause a reduction in oxygen levels as microorganisms consume oxygen for decomposition processes. For this reason these organic substances are evaluated by biochemical oxygen demand (BOD), which measures the amount of oxygen required by bacteria and other microorganisms to decompose the organic matter, and BOD_5, which calculates the amount of oxygen used in the first five days of decomposition. Although levels vary between facilities, typical BOD_5 values in the raw wastewater influent to be treated range from 1,600 mg/L to 3,000 mg/L (Docket No. W–01–06, Record No. 00128). Primary sources of high BOD_5 levels include blood, stomach contents, greases and fats, and pickling, preserving, and cooking materials.

Bacteria are also present in meat first and further processing wastewater in quantities of between 2 to 4 million fecal coliform colony forming units per 100 mL based on the most probable number (MPN) technique for estimating microbial populations. There is also the potential for viruses and parasite eggs to be present in the water. The amounts and types of pollutants that slaughterhouses generate greatly depends upon the particular step

considered in the slaughter process. Tables VII.B–1 and VII.B–2 give characteristics of raw wastewaters at meat product facilities.

Wastewater generated from meat further processors (*e.g.,* meat cutters, sausage producers, ham processors, meat canners) are also dominated by organic materials originating from blood, meat, fatty tissue, and meat extracts. These organic materials also are sources of biochemical oxygen demand, nitrogen, and phosphorus. Other contaminants that can directly enter the wastewater from further processing facilities include salts, pickling, preserving, and preparation materials (*e.g.,* sugar, sodium nitrite and nitrate, spices), lubricating oils, and cleaning compounds. Both slaughterhouses and further processors can generate significant quantities of oil and grease. Characteristics of first processing and further processing wastewaters are shown in Tables VII.B–1 and VII.B–2. Hog and cattle operations are presented separately to highlight differences in generation rates of pollutants of concern.

TABLE VII.B–1.—CHARACTERISTICS OF HOG PROCESSING RAW WASTEWATER

Meat operations	Raw waste characteristics						
	Daily flow MGD	BOD_5 mg/L	Suspended solids mg/L	Grease mg/L	TKN mg/L	TP mg/L	Fecal coliform CFU/100 ml
First Processing and Rendering:							
Average	1.95	2,220	3,314	674	229	73	1.6E6
Range, low-high	0.43–4.21	2,014–2,462	2,896–3,732	406–941	NA	67–78	NA
Further Processing:							
Average	0.30	1,492	363	162	24	82	1.38E6

Source: Docket No. W–01–06, Record No. 00176

TABLE VII.B–2.—CHARACTERISTICS OF CATTLE PROCESSING RAW WASTEWATER

Meat operations	Raw waste characteristics						
	Daily flow MGD	BOD_5 mg/L	Suspended solids mg/L	Grease mg/L	TKN mg/L	TP mg/L	Fecal coliform CFU/100 ml
First Processing and Rendering and Hide Processing:							
Average	1.60	5,771	1,998	1,262	150	41	1.2E6
Range, low-high	0.74–2.18	3,673–7,237	1,153–3,332	146–3,021	67–306	30–58	7.3E5–1.6E6

Source: Docket No. W–01–06, Record No. 00177

2. Poultry Facilities

a. Wastewater Sources and Water Use

As with the meat processing sector, poultry first and further processing facilities are significant consumers of water and generators of wastewaters. Poultry first processing (slaughtering) wastewaters are generated at each stage of the process, beginning with waste generated at the bird reception area from crate cleaning and ending with wastes generated from equipment cleaning during the grading and packing stage. The poultry first processing wastewaters generated at each stage of poultry first processing differ in volume and pollutant loads.

The principal sources of wastes in poultry processing are from live bird holding (reception area) and receiving, killing, defeathering, eviscerating, carcass washing, chilling, cut-up, and cleanup operations. When present, further processing and rendering operations also are significant sources of wastes. These wastes include blood not collected, feathers, viscera, soft tissue removed during trimming and cutting, bone, urine and feces, soil from feathers, and a variety of cleaning and sanitizing compounds. Further processing and rendering can be additional sources of fat and other soft tissue as well as substances such as cooking oils.

The poultry first processing volume and pollutant load from the reception area depends on several factors including bird throughput and extent of dry cleaning employed to sanitize transport vehicles, crates, and unloading areas. Minimizing the wait period prior to slaughter reduces manure production and ultimately the volume of water needed to clean the crates and unloading areas.

The first processing (slaughtering) of poultry generates blood, grease, and cleaning water. Similar to meat facilities, the blood is collected and removed for processing as a by-product for use in feed or fertilizer.

Scalding is performed to loosen the feathers from the slaughtered birds. Scalding also results in the removal of some suspended solids, blood, and grit. The pollutant load generated from this step is dependent on the cleanliness of the birds, the effectiveness of blood recovery, the type of scalding process, and the quantity of water used. The scalded birds are then defeathered by plucking machines. The feathers, typically collected on screens, contain soil particles, grit, and some blood. Feathers, like blood, are treated as a valuable by-product and are cooked, and grounded to form a high protein meal.

The evisceration process involves the removal of both edible offal (e.g., heart, gizzard, and liver) and inedible offal (head, guts) either by a vacuum conveyor or by a water mediated transport (flow-away) system in larger facilities, or by hand (edible offal such as feet which are captured for Asian markets) and flow-away (inedible offal) in small facilities. Screens are used in the flow away system to separate out solids. After evisceration, the carcasses are usually washed to remove any remaining blood and extraneous tissue. Viscera are captured for inedible

rendering. Evisceration is estimated to contribute about a third of the total pollutant load (Docket No. W–01–06, Record Nos. 00133–00137).

In a wet chilling process, carcasses are immersed in cold water or unstatic slush ice to retard bacterial growth and thus spoiling of the meat. The primary pollutants generated in this process are organic matter, body fluids, and fats and grease. Pollutant loads are relatively small and the wastewater can be reused in the chilling process or in other poultry processing operations (e.g., scalding tank) after treatment. USDA FSIS regulations govern water re-use practices from a food safety perspective. USDA FSIS provides an online ''Sanitation Performance Standards Compliance Guide'' as suggested means or examples by which water can be safely re-used in various applications, meeting all regulatory requirements (Docket No. W–01–06, Record No. 10029). These USDA FSIS sanitation guidelines are not regulatory but are intended for didactic purposes only.

Clean up and sanitation can contribute significantly to the overall volume and pollutant load of a poultry first processing facility. The volume and pollutant load of this wastewater varies significantly from facility to facility, and is dependent on several factors including, efficiency of the processing facility, housekeeping practices, the extent to which dry cleaning processes are used, and the volume of water used in washing facility equipment. Improper use of water hoses, for example, could lead to unnecessary use of water and the resulting production of excess wastewater.

The main poultry further processing operations contribute in varying degrees to the raw waste load and flow. These poultry further processing operations include:

- Receiving, storage, thawing;
- Cutting, deboning, dicing, grinding, and chopping;
- Cooking, batter, breading; mixing and blending; and
- Stuffing and canning.

Poultry further processors do no slaughtering but instead produce finished poultry products. Many of the operations performed in poultry further processing facilities are similar to those of meat further processing operations; therefore, sources of wastewater are similar for both meat and poultry further processors. Cooking is involved in almost all poultry further processing operations. These poultry processing operations remove specific parts of the birds, such as wings and legs, and then remove the remaining meat from the skeletal structure of the birds. Cooking may precede or follow this cutting operation. The meat is used in large pieces or reduced in size by using special equipment. Various ingredients are mixed with the poultry meat and the numerous types of finished products are formed, cooked, breaded, packaged, and usually frozen. The relative quantities of water and waste load are substantially less in these further processing facilities than in poultry first processing (slaughtering) facilities.

b. Wastewater Characterization

The principal constituents of poultry processing wastewaters are a variety of readily biodegradable organic compounds, primarily fats and proteins, present in both particulate and dissolved forms. To reduce wastewater treatment requirements, poultry processing wastewaters also are screened to reduce concentrations of particulate matter before treatment. An added benefit of this practice again is increased production of rendered by-products. Because feathers are not rendered with soft tissue, wastewater-containing feathers is not commingled with other wastewater; instead, it is screened separately and then combined with wastewater screened to recover soft tissue before treatment.

Poultry processing wastewaters remain high strength wastes even after screening in comparison to domestic wastewaters based on concentrations of BOD, COD, TSS, nitrogen, and phosphorus. Blood not collected, solubilized fat, and urine and feces are the principal sources of BOD in poultry processing wastewaters. As with meat processing wastewaters, the efficacy of blood collection is a significant factor in determining BOD concentration in poultry processing wastewaters.

Another significant factor in determining the BOD_5 of poultry processing wastewaters is the degree that manure (urine and feces), especially from receiving areas, is handled separately as a solid waste. Chicken and turkey manures have BOD_5 in excess of 40,000 mg/kg on an as excreted basis (Docket No. W–01–06, Record No. 00160). Although the cages and trucks used to transport broilers to processing facilities usually are not washed, cages and trucks used to transport live turkeys to processing facilities are washed to prevent disease transmission from farm to farm. Thus, manure probably is a more significant source of wastewater BOD for turkey processing operations than for broiler processing operations.

Primarily because of immersion chilling, fat is a more significant source of BOD in poultry processing in comparison to meat processing wastewaters. Additional sources of BOD in poultry processing wastewaters are the feather and skin oils desorbed during scalding for feather removal. Thus, the oil and grease content of poultry processing wastewaters typically is higher than that in meat processing wastewaters.

Blood not collected as well as urine and feces also are significant sources of nitrogen in poultry processing wastewaters. The principal form of nitrogen in these wastewaters before treatment is organic nitrogen with some ammonia nitrogen produced by the microbially mediated mineralization of organic nitrogen during collection. Nitrite and nitrate nitrogen generally are present only in trace concentrations, less than 1 mg/L. The phosphorus in poultry processing wastewaters also is primarily from blood, manure, and cleaning and sanitizing compounds.

Due to the presence of manure in poultry processing wastewaters, densities of the total and fecal coliform and fecal streptococcus groups of bacteria generally are on the order of several million colony forming units per 100 mL. Members of these groups of microorganisms generally are not pathogenic; but they do indicate the possible presence of pathogens of enteric origin such as *Salmonella ssp.* and *Campylobacter jejuni,* gastrointestinal parasites, and pathogenic enteric viruses. *Giardia lamblia,* and *Cryptosporidium parvum* are not of concern in poultry processing wastewaters.

Poultry processing wastewaters also contain a variety of mineral elements, some of which are present in the potable water used. Water supply systems and mechanical equipment may be significant sources of metals including copper, chromium, molybdenum, nickel, titanium, and vanadium. In addition, manure is a significant source of arsenic and zinc. Although pesticides also are commonly used in the production of poultry to control external parasites, mandated withdrawal periods before slaughter typically should limit concentrations in wastewater to non-detectable or trace levels. Table VII.B–3 gives characteristics of poultry processing raw wastewaters.

TABLE VII.B–3.—CHARACTERISTICS OF POULTRY PROCESSING RAW WASTEWATER

Poultry meat operations	Raw waste characteristics						
	Daily flow MGD	BOD_5 mg/L	Suspended solids mg/L	Grease mg/L	TKN mg/L	TP mg/L	Fecal coliform CFU/100 ml
First Processing:							
Average	0.89	1,662	760	665	54	12	9.8E5
Range, low-high	0.60–1.10	948–2,166	510–1,040	243–1,501	14–102	6–17	2.6E5—1.6E6
Further Processing and Rendering:							
Average	1.10	3,293	1,657	793	80	72	8.6E5

Source: Docket No. W–01–06, Record No. 00161.

3. Independent Rendering Facilities

a. Wastewater Sources and Water Use

Rendering operations are intensive users of water and significant generators of wastewater. Water is used throughout the rendering process, for raw material sterilization, condensing cooking vapors, facility cleanup, truck and barrel washing, odor control and boiler makeup (Docket No. W–01–06, Record No. 00141). Most of these activities also generate wastewater. Rendering facilities produce approximately one-half ton (120 gallons) of water for each ton of rendered material (Docket No. W–01–06, Record No. 00122). Variations in wastewater flow per unit of raw material processed are largely attributable to the type of condensers used for condensing the cooking vapors and, to a lesser extent, to the initial moisture content of the raw material.

The National Rendering Association (NRA) collected data from its membership to provide a general characterization of rendering wastewaters. Results from an NRA survey of its members indicates that the average rendering facility (in terms of production) generates about 215,000 gallons/day of process wastewater and an average of 34,000 gallons/day from other sources (Docket No. W–01–06, Record No. 00122). The NRA estimates that the average sized facility discharges about 243,300 gallons/day or 169 gallons per minute (Docket No. W–01–06, Record No. 00122).

Condensates resulting from cooking and drying are the largest contributors to the total wastewater in terms of volume and pollutant load (Docket No. W–01–06, Record No. 00127). At those rendering facilities where hide curing is also performed as an ancillary operation, additional wastewater flow is generated. Wastewaters from these operations are high in pollutant concentrations, but relatively low in volume, particularly when the curing solution is only dumped a few times each year (Docket No. W–01–06, Record No. 00141).

Water scrubbers commonly are used to control emissions of noxious odors from the condensation of evaporated moisture produced during cooking and drying. These scrubbers can contribute up to 75 percent of the volume of wastewater discharged from these cooking and drying operations (Docket W–01–06, Record No. 00141). Condensates recovered from cooking and drying processes contain high concentrations of volatile organic acids, amines, and mercaptans, and other malodorous compounds. Thus, rendering facility condensers can be sources of significant emissions of noxious odors to the atmosphere without water scrubbing for emission control. Recycled final effluent is used for the scrubber operation; therefore, little increase in final effluent volume is produced by the scrubber operation.

Liquid drainage from raw material receiving areas can contribute significantly to the total raw waste load (Docket W–01–06, Record No. 00141). Large amounts of raw materials commonly accumulate in receiving areas (in bins or on floors). Fluids from these raw materials drain off and enter the internal facility sewers (Docket W–01–06, Record No. 00141). At rendering facilities that process poultry, drainage of liquids can be significant because of the use of fluming to transport feathers and viscera in the processing facility. In such facilities, liquid drainage may account for approximately 20 percent of the original raw material weight.

The other important source of wastewater from rendering operations is water used for cleaning equipment and interior building surfaces, the cleanup of spills, and trucks when materials are received from off-site locations for rendering. Cleanup of rendering equipment and facilities is less intensive than for processing facilities and usually occurs only once per day, even though rendering usually is a 24-hour operation and commonly occurs on a seven day per week schedule. The wastewater generated during cleanup operations usually accounts for about 30 percent of total rendering facility wastewater flow (Docket W–01–06, Record No. 00141).

b. Wastewater Characterization

Although a rendering facility's wastewater pollutant concentration can vary with the quantity and state of the animal material delivered to the facility (Docket No. W–01–06, Record No. 00126), the wastewater constituents are generally the same for all facilities (Docket No. W–01–06, Record No. 00141). For example, a 1975 EPA survey found that the average and range of BOD_5 wastewater values for facilities processing greater than 50 percent poultry by-products could not be differentiated from those facilities processing less than 50 percent poultry by-products or from those for the total industry. Additionally, the study found that facility size did not have an effect on the levels of pollutants in the waste stream. Facility practices are the determining factor for raw wasteload (Docket No. W–01–06, Record No. 00141). During the summer, if raw materials are received by the rendering operation in an advanced state of decay, ammonium levels in the effluents could increase.

In a typical rendering facility the raw materials that are processed include body fluids (including blood), fat, manure, hide curing solutions, tallow and grease, and animal tissue (including meal products such as meat, meat and bone, blood, feathers, hair and poultry meal) (Docket No. W–01–06, Record No. 00126; Record No. 00141). All of these products can enter the wastewater, and as a result, the wastewater typically contains organic materials such as protein (soluble and insoluble), grease, suspended solids, which are sources of biochemical oxygen demand, nitrogenous compounds, phosphorus, salts.

As mentioned above, wastewater is generated at each step of the rendering process. Condensates formed during the cooking/drying process are extremely polluted and contain high concentrations of volatile organic acids, amines, mercaptans, and other noxious compounds. Most of the organic compounds detected in rendering wastewater are volatile fatty acids (Docket No. W–01–06, Record No. 00127).

Washdown in inedible rendering facilities is less intensive than in meat and poultry processing facilities because the same degree of sanitation is not required (Docket No. W–01–06, Record No. 00141). Washdown, the process of cleaning the areas for receiving, grinding and cooking of raw materials and product separation with water, usually occurs at the end of a day's operation when rendering has been completed. The volume of water used for cleanup can be a significant portion of the flow per unit of raw material processed; usually, clean up water accounts for 30 percent of the total wastewater flow (Docket No. W–01–06, Record No. 00141). Other areas are typically dry cleaned. Washdown can also follow an accidental spill, further contributing to the wastewater load.

Each step in the rendering process contributes to the overall pollutant load and volume of wastewater. The relative contributions of each step in the process can be seen in Table VII.B–4. The table presents the pollutant concentrations found in samples collected from a continuous dry rendering facility in Columbus, Ohio (Docket No. W–01–06, Record No. 00126). Samples from cooker condensate, raw blood, and washdown water were analyzed. The cooker condensate was mostly composed of condensed volatile fats and oils with some ammonia. The washdown water was facility clean-up water mixed with drainage from the raw product storage hopper (the relative proportions were not measured). Although the blood accounted for only a small percentage of the total volume of wastewater, it was very high in chemical oxygen demand (COD).

TABLE VII.B–4.—POLLUTANT LOADINGS FOR A DRY CONTINUOUS RENDERING FACILITY

Parameter	Raw blood [1] (mg/l)	Cooker condensate [1,2] (mg/l)	Wash-up water [3] (mg/l)
Total COD	150,000	2,400–6,000	7,600
Soluble COD	136,000	2,400–6,000	3,200
Kjeldahl Nitrogen (TKN–N)	16,500	430–740	270
Crude Protein (Org-N*6.25)	81,250	0	1,440
Ammonia Nitrogen	3,500	430–740	40
COD: TKN	9.1	5.6–8.1	28.1
Total Phosphorus (P)	183	<4	15.1
COD:P	820	>1500	503
Freon Extractables (Fats, Oils, and Grease)	620	110–260	35
Potassium	798	<6	20.9
Calcium	55	<1	26.4
Magnesium	27	<1	7.3
Iron	164	2	9.4
Sodium	818	0.1	37.1
Copper	0.7	<0.2	0.1
Zinc	1.3	<0.15	0.46
Manganese	0.05	0.05	0.01
Lead	<0.6	<3	<1.3
Chromium	0.3	<0.2	0.12
Cadmium	0.05	<0.01	<0.04
Nickel	<0.2	<1	<0.4
Cobalt	<0.02	<0.01	<0.04
Sulfate (SO_4–S)	300	<2	4.6
Total Chloride	1700	<2	86

Source: Docket No. W–01–06, Record No. 00126.

Note 1: Each point is the mean of three samples analyzed in duplicate.

Note 2: Two batches of influent were used in the research. A range in concentration levels is shown for some cooker condensate parameters because of variability in strength between winter and summer batches. Cold ambient temperatures around the forced air condensers affected the COD strength of the cooker condensate. The COD strength of the blood and wash-up water was similar for both batches, so only one concentration level is presented.

Note 3: "<" and ">" symbols both indicate the limits of the analyses were exceeded.

The National Rendering Association (NRA) collected data from its membership to provide a general characterization of rendering wastewaters. Table VII.B–5 presents the results of this survey. The data represent only wastewater generated and final effluent loadings, and do not identify specific sources of generated wastewater. The final effluent data represent pollutant loads after treatment has been applied. The NRA did not collect data on nutrients or metals. Fecal coliform bacteria were detected at bacterial counts of 250,000,000 colony forming units per milliliter for generated wastewaters and 45,000 colony forming units per milliliter for discharged wastewaters.

TABLE VII.B–5.—WASTEWATER CHARACTERIZATION OF "TYPICAL" NRA MEMBER RENDER FACILITY

Parameter	Generated wastewater concentration (mg/L)	Discharged wastewater concentration (mg/L)
Chemical Oxygen Demand (COD)	123,000	8,000
Biochemical Oxygen Demand (BOD)	80,000	5,100
Total Suspended Solids (TSS)	8,400	268
Fats, Oils, and Greases (FOG)	3,200	116
Metals (Average Zinc)	NA	0.68

Source: NRA, 2000.

C. Pollutants of Concern

EPA determined pollutants of concern for the meat and poultry products industry by assessing EPA sampling data. To establish the pollutant of concern, EPA reviewed the analytical data from influent wastewater samples to determine the pollutants which were detected at treatable levels. EPA set treatable levels at five times the baseline value to ensure that pollutants detected at only trace amounts would not be selected. EPA obtained the pollutants of concern by establishing which parameters were detected at treatable levels in at least 10 percent of all the influent wastewater samples. Tables VII.C–1 and VII.C–2 show the result of this analysis. EPA did not sample at independent rendering facilities but instead transferred data from on-site rendering facilities. Consequently, EPA is using all the pollutants of concern from Tables VII.C–1 and VII.C–2 for independent rendering facilities. EPA is planning further sampling at independent rendering facilities after proposal to better refine the list of pollutants of concern list for independent renderers.

TABLE VII.C–1.—POLLUTANTS OF CONCERN FOR MEAT PROCESSING FACILITIES

Pollutant group	Pollutant	CAS No.	Number of times analyzed	Number of detects
Classicals or Biologicals	Aeromonas	C2101	36	36
	Ammonia as Nitrogen	7664417	46	46
	Biochemical Oxygen Demand	C003	46	45
	BOD 5-day (Carbonaceous)	C002	46	46
	Chemical Oxygen Demand (COD)	C004	46	46
	Chloride	16887006	46	46
	Cryptosporidium	137259508	6	6
	Dissolved Biochemical Oxygen Demand	C003D	46	41
	Dissolved Phosphorus	14265442D	46	46
	E. Coli	C050	36	36
	Fecal Coliform	C2106	46	46
	Fecal Streptococcus	C2107	46	46
	Hexane Extractable Material	C036	46	46
	Nitrate/Nitrite	C005	46	33
	Total Coliform	E10606	46	46
	Total Dissolved Solids	C010	46	46
	Total Kjeldahl Nitrogen	C021	36	36
	Total Organic Carbon (TOC)	C012	46	46
	Total Orthophosphate	C034	46	45
	Total Phosphorus	14265442	46	46
	Total Suspended Solids	C009	46	46
	Volatile Residue	C030	46	46
Metals	Chromium	7440473	46	46
	Copper	7440508	46	46
	Manganese	7439965	46	46
	Titanium	7440326	46	46
	Zinc	7440666	46	46
Pesticides	Carbaryl	63252	12	5
	Cis-permethrin	61949766	12	6
	Trans-permethrin	61949777	12	7

TABLE VII.C–2.—POLLUTANTS OF CONCERN FOR POULTRY PROCESSING FACILITIES

Pollutant group	Pollutant	CAS No.	Number of times analyzed	Number of detects
Classicals or Biologicals	Aeromonas	C2101	17	17
	Ammonia as Nitrogen	7664417	48	47
	Biochemical Oxygen Demand	C003	48	48
	BOD 5-day (Carbonaceous)	C002	48	48
	Chemical Oxygen Demand (COD)	C004	48	48

TABLE VII.C–2.—POLLUTANTS OF CONCERN FOR POULTRY PROCESSING FACILITIES—Continued

Pollutant group	Pollutant	CAS No.	Number of times analyzed	Number of detects
	Chloride	16887006	48	48
	Dissolved Biochemical Oxygen Demand	C003D	48	47
	Dissolved Phosphorus	14265442D	48	48
	E. Coli	C050	17	17
	Fecal Coliform	C2106	23	23
	Fecal Streptococcus	C2107	23	23
	Hexane Extractable Material	C036	48	48
	Nitrate/Nitrite	C005	48	28
	Salmonella	68583357	17	3
	Total Coliform	E10606	23	23
	Total Dissolved Solids	C010	48	48
	Total Kjeldahl Nitrogen	C021	47	47
	Total Organic Carbon (TOC)	C012	48	46
	Total Orthophosphate	C034	48	44
	Total Phosphorus	14265442	48	48
	Total Residual Chlorine	7782505	48	14
	Total Suspended Solids	C009	48	48
	Volatile Residue	C030	48	48
Metals	Copper	7440508	48	48
	Manganese	7439965	48	47
	Zinc	7440666	48	48
Pesticides	Carbaryl	63252	21	12

D. Approach to Estimating Compliance Costs

1. Overview

This section describes EPA's methodology for estimating engineering compliance costs and pollutant loading reductions associated with the regulatory options proposed for the meat and poultry products industry. Costs and pollutant loading reductions were estimated for each class of MPP facilities, including meat, poultry, and meat and poultry (mixed) facilities. A description of each of the technology options is provided below and the rationale for selecting the proposed BAT and NSPS options are provided in Section XI. Detailed information on estimated compliance costs are provided in the MPP Development Document (*see* Docket No. W–01–06, Record No. 00168).

2. Methods for Estimating Compliance Costs

a. Overview

This section presents EPA's estimates of industry-wide compliance costs associated with the proposed rule. EPA separated MPP facilities into groups based on the type of meat and poultry processed (*e.g.,* meat, poultry, or both meat and poultry). To ensure all facilities are accounted for, and variation in raw wastewater characteristics are considered, EPA classified all meat and poultry processing operations as either first processing (*e.g.,* slaughtering, carcass preparation and quartering), further processing (*e.g.,* deboning, cooking, sausage making), or rendering (wet or dry) and all possible combinations of these processes. These classifications produced 19 groupings. Table VII.D–1 details the 19 different groupings. Finally, EPA divided each of the 19 groupings into four size classes (small, medium, large, and very large) based on annual total production. These groupings allow EPA to consider variations in: (1) Raw wastewater characteristics as determined by meat type and processes performed; and (2) size, which can determine wastewater volumes generated and thus the size of required treatment technology. EPA used these MPP operations, meat or poultry product types, and size classifications to develop 76 model facilities (= 19 groupings x 4 size classes) in order to describe the broad range of potential MPP facilities in current operation.

TABLE VII.D–1.—DEFINITION OF 19 MPP MODEL FACILITY GROUPINGS

Number	Product type	Model facility grouping code	Processes performed		
			First processing	Further processing	Rendering
1	Meat	R1	X		
2	Meat	R2		X	
3	Meat	R12	X	X	
4	Meat	R13	X		X
5	Meat	R23		X	X
6	Meat	R123	X	X	X
7	Poultry	P1	X		
8	Poultry	P2		X	
9	Poultry	P12	X	X	
10	Poultry	P13	X		X
11	Poultry	P23		X	X
12	Poultry	P123	X	X	X
13	Mixed (Meat & Poultry)	M1	X		

TABLE VII.D–1.—DEFINITION OF 19 MPP MODEL FACILITY GROUPINGS—Continued

Number	Product type	Model facility grouping code	Processes performed		
			First processing	Further processing	Rendering
14	Mixed (Meat & Poultry)	M2		X	
15	Mixed (Meat & Poultry)	M12	X	X	
16	Mixed (Meat & Poultry)	M13	X		X
17	Mixed (Meat & Poultry)	M23		X	X
18	Mixed (Meat & Poultry)	M123	X	X	X
19	Meat and/or Poultry	Render			X

EPA developed characteristics for each model facility based on the MPP Screener Survey, the MPP Detailed Survey, and EPA's sampling data. EPA used Computer Assisted Procedure For Design And Evaluation Of Wastewater Treatment Systems (CAPDET), a computerized cost model, for developing construction cost and annual costs of a treatment unit (Docket No. W–01–06, Record No. 00129). The capital cost of a treatment unit was calculated using the construction costs obtained from CAPDET.

The step-by-step method for calculating the incremental cost for each regulatory option is summarized below:

- Use the MPP Screener Survey data to establish production levels for each of the 76 model facilities;
- Use the MPP Screener Survey data to identify the median wastewater flow (model facility flow) and to estimate the number of MPP facilities nationally represented by each of the 76 model facilities;
- Use the MPP Detailed Survey data to determine frequency of occurrence for treatment units in each of the 76 model facilities;
- Develop construction costs and annual costs of treatment units from CAPDET using model facility wastewater flows and typical influent and effluent pollutant concentrations;
- Estimate capital costs of treatment units from construction costs;
- Estimate capital and annual costs for each regulatory option of the 76 model facilities using capital and annual costs of treatment units, frequency of occurrence, and national estimate of MPP facilities for each of the 76 model facilities; and
- Estimate the regulatory cost for each subcategory based on the model facility costs.

The Agency has developed a regulatory subcategorization scheme for the proposed rule, based on various combinations of the 76 model facility costs. Table VII.D–2 defines the 10 regulatory groupings based on facility type and size. See section 11 of the MPP Development Document for more details on how EPA developed size classifications for each of the 19 groupings.

TABLE VII.D–2.—DEFINITION OF 10 MPP REGULATORY GROUPINGS

40 CFR subcategory	Facility size	Facility type	Model facility grouping code [1]
A, B, C, D	Medium, large, very large	Meat first	R1, R12, R13, R123.
	Small	Meat first processors	R1, R12, R13, R123.
F, G, H, I	Medium, large, very large	Meat further processors	R2, R23, 0.61 *M2.
	Small [2]	Meat further processors	R2, R23, 0.59*M2, 0.5*M23.
J	Medium, large, very large	Independent Renderers	Render.
	Small	Independent Renderers	Render.
K	Medium, large, very large	Poultry first processors	P1, P12, P13, P123.
	Small	Poultry further processors	P1, P12, P13, P123.
L	Medium, large, very large	Poultry further processors	P2, P23, 0.39*M2.
	Small	Poultry further processors	P2, P23, 0.41*M2, 0.5*M23.

Note 1: The following abbreviations apply: R = Meat facilities; P = Poultry facilities; M = Facilities producing both meat and poultry products; 1 = First Processors; 2 = Further Processors; and 3 = Meat or Poultry facilities performing on-site rendering.

Note 2: This group of small meat further processors includes all meat facilities that annually produce less than 50 million pounds of finished product and also includes all facilities currently covered under Subpart E (Small Processors) (*see* Section III.A.1).

The MPP Screener Survey only identified medium sized facilities performing further processing on both meat and poultry (Model Facility Grouping Code = M2 and M23) and small facilities performing further processing, and further processing and rendering on both meat and poultry (Model Facility Grouping Code = M23). EPA allocated the costs for facilities that produce both meat and poultry products into the meat further processors regulatory grouping (40 CFR part 432, Subcategory E through I) and poultry further processors regulatory grouping (40 CFR part 432, Subcategory L) based on total annual production. EPA allocated the costs equally between the two groupings if production data were not available.

b. Available Technologies

Although EPA is proposing limitations and standards based on the performance of specific processes and treatment technologies in reducing pollutant loadings, the Agency is not proposing to require a discharger to use those processes or technologies in treating the wastewater. Rather, the processes and technologies that would be used to treat meat and poultry processing wastewater are left to the discretion of individual facilities; the proposed rule requires only the numerical discharge limits be achieved. In establishing these limits, however, EPA evaluated a range of technology options that a facility could implement to achieve the proposed limitations and standards. The technology options evaluated for existing direct dischargers

(BPT/BCT/BAT) and Pretreatment Standards for Existing Sources (PSES) were selected based on an analysis of treatment units in-place according to the data supplied in the detailed surveys. A summary of these technology options are shown in the Table VII.D–3.

TABLE VII.D–3.—BPT/BCT/BAT/PSES TECHNOLOGY OPTIONS CONSIDERED FOR THE MEAT AND POULTRY PROCESSING INDUSTRY

Treatment units	Technology options [1]								
	1	2	3	4	5	PSES 1	PSES 2	PSES 3	PSES 4
Screen	X	X	X	X	X	X	X	X	X
Dissolved air floatation (DAF)	X	X	X	X	X	X	X	X	X
Equalization tank						X	X	X	X
Anaerobic lagoon	X	X	X	X	X				
Biological treatment with nitrification	X [1]	X	X	X	X		X	X	X
Biological treatment with nitrification and denitrification			X	X	X			X	X
Biological treatment with nitrification and denitrification and phosphorous removal				X	X				X
Filter					X				
Disinfection	X	X	X	X	X				

X: treatment unit is required for that option.
[1] Nitrification is limited for Option 1.
Note 1: EPA only considered Option5 for poultry facilities.

c. Treatment-in-Place Frequency of Occurrence

The frequency of occurrence for specific treatment units was an important factor in EPA's cost estimates. To evaluate treatment-in-place, EPA categorized MPP Detailed Survey responses into two size groups: small and non-small (medium, large, very large). Data provided in the MPP Detailed Survey were not sufficiently detailed to allow further subdividing the non-small grouping into individual groupings for medium, large, and very large facilities. EPA also considered frequency of treatment units by discharge status (direct or indirect).

The Agency evaluated the wastewater treatment systems of all the facilities currently in the MPP Detailed Survey database. To determine the wastewater treatment upgrades necessary for the facilities to be in compliance with each regulatory option, the Agency compared the existing treatment system of the facility to the list of treatment units for each regulatory option (Table VII.D–3). EPA determined the treatment unit frequency of occurrence for each of the 76 model facilities. Treatment unit frequency of occurrence is defined as the ratio of the number of facilities that have the treatment unit in place (or other treatment units that can perform the same function) to the total number of facilities in that subcategory. The frequency of occurrence distribution across medium, large, and very large facilities was assumed to be identical. Facilities that do not have the treatment unit require upgrading costs to achieve the performance of the proposed technology options.

d. CAPDET Computer Model

The Computer Assisted Procedure For Design And Evaluation Of Wastewater Treatment Systems (CAPDET) computer model requires design specifications and pollutant wastewater concentrations as its input. Data collected through survey responses, site visits, sampling episodes, and literature were used to run the CAPDET model. The input wastewater flow for a particular subcategory was taken equal to the model flow of that subcategory. Although default influent concentration values are provided in CAPDET, EPA used sampling and survey data from MPP facilities to extent available for purposes of running the cost model. The influent concentrations for a particular subcategory were determined through the use of EPA sampling data. In general, data from sampling locations that represent influent concentrations of the wastewater treatment system for each regulatory option were selected. When data from multiple facilities were identified for a regulatory option, an average of the concentrations was derived. EPA excluded a limited amount of sampling and survey data that were considered outliers based on engineering judgement. If data were not available, EPA derived data from similar operating facilities having similar wastewater characteristics. Default values provided in CAPDET were used for several parameters for which no sampling value was available (e.g., percent volatile solids, cations, anions, non-degradable fraction of VSS). Soluble COD and settleable solids concentrations were derived based on literature. Desired effluent concentrations for a particular subcategory for each option were determined from EPA sampling episodes and from detailed survey responses. EPA selected data from best performing red meat, poultry, rendering, and mixed facilities for each option based on effluent concentrations and the treatment scheme the facilities had in-place. If data were not available, EPA derived data from similar operating facilities having similar wastewater characteristics. Remaining design specifications were determined from literature, survey responses, site visits, and sampling episodes.

e. Cost Components

Capital cost, annual cost, performance cost, and retrofit costs are the four major components of costs used for estimating the incremental industry-wide cost for the proposed regulation.

The construction costs of treatment units for each subcategory were obtained as an output from CAPDET model runs. Based on the cost information obtained from the costing document for centralized waste treatment industry (Docket No. W–01–06, Record No. 00138), the direct (excluding construction cost) and indirect costs were estimated to be 69 percent of the construction cost of the treatment units. The break up of the direct and indirect costs are provided in Table VII.D–4. The capital cost for a treatment unit was obtained by using the following equation:

Capital Cost of a treatment unit = 1.69 × Construction cost of the treatment unit

TABLE VII.D–4.—COST FACTORS USED TO ESTIMATE CAPITAL COSTS

Cost item	Cost type	Cost factor (% of construction cost)
Construction cost	Direct	100
Piping	Direct	17
Instrumentation and controls.	Direct	13
Engineering	Indirect	19.5
Contingency	Indirect	19.5
Total capital cost		169

The annual (operations and maintenance) costs of the treatment units for each subcategory were obtained from the CAPDET model. The incremental annual costs were associated with the following cost items:

- Labor (operation, maintenance, laboratory, administrative and general),
- Maintenance (materials and vendors),
- Chemical Costs,
- Energy Costs, and
- Sludge disposal costs.

f. Incremental Costs Calculation

EPA estimated the incremental cost for each regulatory option by comparing the existing treatment system of the facility identified in the MPP Detailed Survey with that of the proposed regulatory option (*see* Table VII.D–3) and costed for the additional treatment units needed to meet the regulatory option. Therefore, a facility identified by the MPP Detailed Survey that has a treatment train similar to a regulatory treatment option does not accrue any additional cost for that regulatory option. It is expected that the facilities with a technology-in-place (TIP) comparable to an option should be able to meet the proposed effluent limits of that option. However, in reality, some of these facilities with TIP may not be able to meet the proposed effluent limits because of inadequate operational practices compared to the proposed treatment unit. Therefore, to calculate the cost of improving performance, the Agency assumed a 10 percent increase in the annual costs of all the facilities with TIP as performance cost.

Since many of the existing treatment units in the facilities could be retrofitted to meet stricter regulatory options, EPA investigated the costs required to upgrade such systems. The Agency found that all nitrification systems (Option2 and PSES2) could be retrofitted to a nitrification and denitrification system (Option3, PSES3). Similarly, all nitrification and denitrification systems could be retrofitted to a nitrification, denitrification, and phosphorous removal (Option4, Option5, PSES4) system. Based on information provided by industry experts, EPA estimated that facilities with a nitrification system in place would incur 33 percent of the capital cost of a new nitrification system to upgrade the system to a nitrification and denitrification system (Docket No. W–01–06, Record No. 00130). Retrofit capital costs to convert a nitrification system to a nitrification and denitrification and phosphorous removal system were estimated to be 54 percent of the capital cost of a new nitrification system (ibid). For direct dischargers, the Agency assumed that the retrofit costs to convert a nitrification system to: (1) A nitrification and denitrification system; and (2) a nitrification and denitrification and phosphorous removal system are 45 percent and 65 percent respectively of the cost of a nitrification and denitrification system. See the MPP Development Document for more information on what assumptions EPA used in estimating retrofit costs.

g. Summary of Annualized Engineering Costs

The recommended options with annualized costs for the non-small size category are shown in Table VII.D–5. These costs include the estimated capital investment costs annualized as described in Section VIII of this notice. EPA used the retrofit costs to estimate the total compliance cost for this industry ($80 million). EPA notes that retrofit options are available to MPP facilities and are less costly than construction of new treatment units (e.g. tanks, piping) (Docket W–01–06, Record No. 00166.) EPA's basis for selecting the retrofit costs is that operators will choose the less costly compliance option and retrofit their WWTP when the retrofit option is available. EPA solicits comment on which costs (i.e., retrofit or upper bound) is most appropriate to consider for the final rule.

TABLE VII.D–5.—ANNUALIZED COSTS (1999$) OF THE RECOMMENDED OPTIONS FOR NON-SMALL SIZE CLASS

Regulatory subcategory (RS)	Discharge type	Option	Annualized cost (millions per year)
A, B, C, D	Direct	BAT3	42.2
F, G, H, I	Direct	BAT3	0.5
J	Direct	BAT2	0.6
K	Direct	BAT3	34.5
L	Direct	BAT3	2.2

E. Approach to Estimating Pollutant Reductions

1. Sources and Use of Available Data

EPA used analytical data provided by the industry in the detailed surveys and analytical data from facilities sampled to estimate baseline and post-compliance pollutant concentrations. Detailed Surveys for 48 direct dischargers and 103 indirect dischargers were used in the analysis. In addition, EPA used data from the sampling efforts conducted at 11 MPP facilities. As previously stated, two facilities were sampled by EPA and nine facilities carried out self-sampling with technical oversight provided by EPA.

2. Calculation of Average Concentrations from Analytical Data

For each facility that provided analytical data as part of their detailed survey, EPA used the average concentrations provided in the detailed survey for each pollutant of concern in the baseline loading analysis. When a facility did not provide average concentrations but instead provided non-averaged, self-monitoring data, EPA calculated an average value to use as the baseline concentration. In calculating proposal average baseline concentrations, EPA did not edit any analytical data provided in the detailed survey. In addition, EPA did not use sample detection limits or the maximum and minimum concentration values when average values were not available

in the survey. However, for EPA sampling episodes where concentrations of pollutants were reported below the sample detection limit, EPA used the reported sample detection limit as the concentration. Analytical data from the sampling episodes used for both baseline and regulatory options loading calculations were averaged on a daily basis for each sample location.

3. Establishment of Baseline Concentration Data

EPA derived baseline concentrations for each POC for each of the 151 (= 48 direct + 103 indirect) facilities used to generate pollutant load reduction estimates. EPA used the following hierarchy of methods to calculate baseline concentrations for each of the 151 facilities:

- When a facility provided concentration data (average values provided in the detailed survey and averages calculated by EPA as described previously) for any of the 37 POCs, EPA used this average concentration.
- In the absence of any baseline concentration data in the detailed survey, EPA transferred analytical data from EPA sampling episodes for similar meat and poultry processors and similar treatment in-place. When such sampling data were available for more than one episode, EPA used an average concentration value of these episodes.
- For POCs where EPA sampling episode data were not available to transfer concentration data, the Agency used average concentrations from both detailed survey and EPA sampling episode data from facilities with the same processing category and treatment option to calculate an average baseline concentration for each pollutant in a subcategory.
- When data from facilities in the same meat and poultry processing category were not available, an average concentration of facilities in similar meat and poultry processing categories was used instead.
- When all of the above imputation methods failed to derive pollutant concentrations, then facility data from other, similar treatment options were used. The size of the facility (small or non-small) was not considered in transferring data within similar meat and poultry processing categories and treatment options.

After pollutant data were estimated for each facility, EPA calculated average baseline concentrations from the individual facilities, separating indirect dischargers from direct dischargers and small facilities from non-small facilities. This process yielded a total of four averages for each meat and poultry processing category: (1) Direct, small; (2) direct, non-small; (3) indirect, small; and (4) indirect non-small. When a particular meat and poultry processing category was not represented by the facilities in the detailed survey, EPA used available data from similar meat and poultry processing categories in the detailed survey to derive average pollutant concentrations for the missing meat and poultry processing category. Averages were comprised of meat subcategory averages that best represent the subcategory without facilities. This calculation used both small and non-small facilities. These estimates were then used to generate baseline pollutant concentrations for each of the 19 meat and poultry processing categories (*see* Table VII.D–1) being analyzed by EPA.

4. Derivation Average Effluent Concentrations Representing Implementation of Regulatory Options

For each regulatory option being considered, EPA calculated average effluent concentrations for effluent pollutant concentrations that represent the best performing facilities (from the respective of types of treatment in-place and degree of expected pollutant removals). For purposes of proposal, EPA relied on both EPA sampling episode data and facility-submitted data to calculate average effluent concentrations. Average effluent concentrations were calculated for the following six meat and poultry processes:

- first processing (meat);
- further processing (meat);
- rendering (meat);
- first processing (poultry);
- further processing (poultry); and
- rendering (poultry).

Average effluent concentrations were derived for each of the above six meat and poultry processes from effluent concentration data collected during the sampling episodes. Specifically, for each regulatory option, effluent concentration data from representative facilities were used to derive average effluent concentrations for each POC. In the absence of data for a particular meat and poultry process at a facility, pollutant concentration data from another facility within the same grouping as well as applicable performance data (i.e., pollutant removal efficiencies from a facility representative of the regulatory option) were used to derive appropriate concentration data. These average effluent concentrations were derived irrespective of facility size.

In order to derive average effluent concentrations for the other 13 meat groupings (other than the six above), EPA used typical flow values provided in the detailed survey to determine the percentage of flow attributable to each of the three processes (first, further and rendering). The Agency used these flow values and pollutant concentrations from the above six subcategories to derive average effluent concentrations for the various combinations of processes such as first and further, first and render, etc. Average effluent concentrations for the rendering subcategory (meat and poultry combined) were derived by averaging poultry rendering average effluent concentrations with meat rendering average effluent concentrations. Likewise, average effluent concentrations for further processing mixed subcategory were derived by averaging average effluent concentrations from poultry further processing with average effluent concentrations from meat further processing. For regulatory option BAT1, average effluent concentrations were based on those developed for regulatory option BAT2 for all pollutants except ammonia, nitrite-nitrate, and TKN. Because under regulatory option BAT1 EPA assumed less efficient nitrification was occurring and all of the sampled facilities were categorized as operating at levels at least equivalent to BAT2, EPA estimated average effluent concentrations for ammonia, nitrite-nitrate, and TKN. These estimates were generally derived by calculating the average ammonia effluent concentrations from facilities that submitted analytical data as part of their detailed survey and that listed their treatment system type as conventional (EPA assumed that these facilities are not operating their treatment systems to specifically achieve nitrification, and therefore would be representative of performance of the BAT1 regulatory option). EPA also assumed that the total nitrogen for regulatory option BAT1 would be equal to the total nitrogen for regulatory option BAT2 (i.e., the total and organic nitrogen would not change from BAT1 to BAT2, just the form that the nitrogen was in). Based on the total nitrogen and ammonia concentrations, EPA then derived nitrite-nitrate and TKN concentrations based on theoretical relationships between the forms of nitrogen.

5. Calculation of Pollutant Loadings

EPA estimated baseline and regulatory option pollutant loadings for all 37 POCs using the average concentrations for each subcategory and national flow (average) values derived from the screener survey for small and non-small facilities. The following

equation was used for conventional pollutants, nutrients, metals and pesticides:

Load = Flow x Conc. x 8.345

where:

Load = Pollutant loading, lbs/day

Flow = Flow rate, million gallons per day

Conc. = Average pollutant concentration, mg/L

8.345 = Conversion factor, lbs/gal and mg/L.

For microbiological pollutants, the loads were computed using the following equation:

Load = Flow x Conc. x 37.8

where:

Load = Pollutant loading, Million cfu/day

Flow = Flow rate, million gallons per day

Conc. = Average pollutant concentration, cfu/100 mL

37.8 = Conversion factor, L/gal and mL/L.

For Cryptosporidium, the loads were computed using the following equation by the following equation:

Load = Flow x Conc. x 3.78

where:

Load = Pollutant loading, Million/day

Flow = Flow rate, million gallons per day

Conc. = Pollutant concentration, per L

3.78 = Conversion factor, L/gal.

EPA estimated pollutant loading for the entire industry using the national estimates of the number of facilities in each meat subcategory multiplied by the subcategory loadings.

VIII. Economic Analysis

A. Introduction

EPA's economic analysis assesses the costs and a variety of impacts of this proposal. This section reviews that analysis while the record for the proposal contains the detailed results of this analysis. In particular, the MPP Economic Analysis (EA) presents the results of the assessment. The MPP EA estimates the economic and financial costs of compliance with the proposal on individual facilities and companies. The MPP EA also considers impacts on new sources, foreign trade impacts and market impacts. The MPP EA also includes an analysis detailing the effects on small meat products businesses. Finally, the MPP EA contains the results of a cost-effectiveness analysis for the meat and poultry products industry.

B. Economic Data Collection Activities

As noted above (*see* Section V.B), EPA sent a survey to a representative sample of meat and poultry products facilities. However, that data has not been fully processed and, with some exceptions, is generally not available for use in the analysis for today's proposal. EPA has thus relied on secondary data sources, most importantly on data from the 1997 U.S. Census of Manufacturers.

a. Census of Manufacturers Data

For the economic analysis used in today's proposal, EPA primarily used data taken from the 1997 Census of Manufacturers published by the U.S. Census Bureau. These data are published according to four NAICS codes applicable to the meat and poultry products industry: 311611 Animal (except Poultry) Slaughtering, 311612 Meat Processed from Carcasses, 311613 Rendering and Meat Byproduct Processing, and 311615 Poultry Processing. The Census data contains a large number of financial statistics that are aggregated to the NAICS-code level. The Census data also contains some information disaggregated by size of establishment; this information is employees, payroll, cost of materials, value of shipments, and a handful of other statistics. Finally, EPA was able to obtain from the Census Bureau the mean, standard deviation, covariance, and correlation of value of shipments, payroll, and cost of materials disaggregated by size of establishment. EPA used this information to create model facilities that were matched to the engineering model facilities (*see* Section VII).

b. MPP Screener and Detailed Survey

EPA was able to use items from the screener and detailed survey in its analysis for the proposal. The questions in both the screener and detailed surveys related to amount of production (of various meat types and processing operations), employees at the facility, and employees at the company that owns the facility are most relevant to the economic analysis. The detailed survey collected a large amount of information about the individual facilities and companies that own those facilities, including general information about the type of ownership, facility and company employment, interest and discount rates, and income statements for 1997–1999 and balance sheets for 1999 (both income statement and balance sheet information were collected for the facility and the company). EPA utilized all of the information from the screener survey in this proposal but was only able to use selected items from the detailed survey due to the additional complexity and time required to process the detailed surveys. This data will be used in EPA's post-proposal analyses and presented in its forthcoming NODA.

c. Other Data Sources

Although EPA relied primarily on its two surveys and the Census of Manufacturers, other data sources informed the analysis where appropriate. These other sources include numerous journals, academic publications, data and reports from USDA and other government agencies, and industry publications such as *Meat & Poultry* and *Meat Processing.*

C. Annualized Compliance Cost Estimates

EPA estimates that 246 direct discharging meat and poultry products facilities would be regulated by this proposal. EPA also considered regulating the 731 largest indirect discharging facilities. EPA calculated the economic impact on each of the facilities based on the cost of compliance using the technology basis for each of the options considered for the proposal. For direct dischargers, EPA calculated impacts for compliance with BPT/BCT/BAT; for indirect dischargers, EPA calculated impacts for compliance with PSES. As detailed in Section XI, EPA based the proposed standards for direct discharges on Option 3 (except for the Rendering Subcategory, which are based on Option 2) and EPA is proposing no limitations or standards for indirect dischargers. EPA also calculated costs and impacts for the 4670 smallest facilities; these results are presented in the EA. These small facilities are not included in the estimates discussed in this section unless specifically noted.

The technologies that are the basis for today's proposal are estimated to have a total pre-tax annualized cost of $80.0 million and a total post-tax annualized cost of $50.5 million. The pre-tax annualized costs are the most complete estimates of annualized control costs, but the post-tax costs more accurately reflect the costs businesses will incur because they net out tax savings. For that reason, both pre-tax or post-tax costs are used in the economic impact analysis. Pre-tax costs, however, more accurately reflect the total cost to society of the rule and are used in the EO 12866 analysis, the cost-effectiveness analysis, and elsewhere.

D. Economic Impact Methodologies

EPA's analysis of the economic impacts of the proposed guidelines and standards for the meat and poultry products industry examines the costs of the proposed regulations on the economic viability of facilities and firms

using relatively standard financial analysis tools. A MPP firm is a business unit or enterprise that owns or operates a collection of MPP facilities. Since the costs are estimated for model facilities, the economic impact analysis is also performed on analogously constructed economic model facilities. This section describes the construction of those facilities and the impact analysis itself as well as a description of what the analysis will look like when the detailed survey data is available.

1. Economic Model Facilities

EPA based its economic model facilities on the U.S. Census Bureau's 1997 Economic Census of the four NAICS codes for meat and poultry product industries (NAICS 311611, 311612, 311613, and 311615). EPA used Census revenue and cost information at both the employment class (that is, disaggregated into size groupings based on annual production) and the industry level. At the employment class level, EPA used the Census' value of total shipments (a proxy for total revenues), payroll and material costs data. (In some cases, value of total shipments may be understated or overstated if survey respondents do not receive the full value for their shipments, as may be the case if one facility ships to another facility owned by the same company. EPA did not, however, adjust these values.) EPA used industry level data on benefits, depreciation, rent, and purchased services and attributed it to the employment class level using a small number of reasonable assumptions (*e.g.*, employment benefits are proportionate to payroll, refuse removal costs are proportionate to material costs). EPA divided each component of facility income by the number of establishments in the employment class to calculate the average for that class. EPA then estimated model facility earnings before interest and taxes (EBIT) in each class as the average value of shipments minus payroll, material costs, benefits, depreciation, rent, and purchased services. Because revenues, payroll and cost of materials are the most significant components of EBIT, the relative error introduced by attributing industry level data to the employment class level should be small.

EPA used data from Census' Annual Survey of Manufacturers (ASM), 1997 Economic Census, and the Internal Revenue Service code combined with additional assumptions to estimate model facility net income and cash flow from EBIT. EPA assumed model facility EBIT is equal to business entity taxable income as the basis for calculating tax payments; EPA then applied 1999 federal and an average of state corporate tax rates to EBIT. EPA estimated industry level interest payments using a combination of ASM data on past investment by industry, Census data on relative investment in buildings and equipment, and assumptions about investment behavior (e.g., all investment in each year was funded through bank loans, the interest rate on those loans was equal to the nominal prime rate for that year plus 1 percent). Interest payments were then attributed to each employment class based on the percentage of industry investment accounted for by that employment class in the 1997 Census. EPA estimated net income as EBIT less estimated tax and interest payments for each model facility. Cash flow was then calculated as net income plus depreciation. EPA inflated all model income measures from the Census year, 1997, to the baseline year, 1999, using the implicit price deflator for the meat and poultry products industry.

However, the model facility in reality represents a distribution of facility incomes around the mean. Therefore, EPA estimated this distribution of income around the model facility mean by obtaining from Census a special tabulation of the variances and covariances for value of shipments, material costs, and payroll in each employment class. EPA assumed that the distribution of each variable is normal; given the relatively large number of observations within each employment class, this assumption is reasonable. Because model facility EBIT is calculated as a linear function of the means of its components, the variance of EBIT for each employment class can be calculated as a linear function of the variances and covariances of the components using well established formulae. Because the actual income measures differed from the approximate income measure (EBIT) on which variance was estimated, EPA adjusted the variance of each income measure using standard rules concerning the expected value of mean and variance.

In order to perform the economic impact analysis, EPA matched its economic model facilities to the engineering model facilities used to estimate costs. All red meat (or meat) facilities that perform animal slaughter, whether alone or in combination with other processes, were assigned economic model facilities from NAICS 311611. Red meat facilities that perform further processing but no slaughtering activities processes were assigned economic model facilities from NAICS 311612, as were facilities that process a mix of both red meat and poultry (approximately 70 percent of their production is red meat). Facilities that process poultry, with or without slaughter, were assigned economic model facilities from NAICS 311615. Finally, facilities that only perform rendering operations were classified as NAICS 311613. The model economic facilities were further matched to the model engineering facilities by size. EPA used production from each engineering model, combined with representative meat product prices for 1999, to estimate model facility revenues. The engineering model was then assigned an economic model that most closely matched its estimated revenues.

The economic analysis is based on a wide variety of sources including the screener survey and publicly available data. However, the facility counts in each class and subcategory are based on estimates derived from the stratified random sampling procedure used to determine survey recipients. Sixty-five facilities were specifically selected to receive surveys (''certainty facilities''). Information on these 65 certainty facilities was not available in time to complete subcategorization and analysis of these facilities because information on these facilities was collected in the detailed survey and it could not be processed as quickly as the screener survey. Therefore, to project potential impacts to these 65 certainty facilities, EPA totaled impacts by subcategory (or class) and discharge type, then inflated these impacts by 8 percent. EPA is thus implicitly assuming that the 65 certainty facilities are similar to the model facilities used in the remainder of the analysis, and impacts are therefore proportionate to impacts projected for other facilities. However, EPA could not identify the subcategories or classes in which these impacts may occur in time to include precise estimates for all aspects of the analysis. Instances where the certainty facilities are excluded from the analysis are indicated clearly.

2. Methodology for Calculating Impacts

EPA calculated economic impacts of facilities and firms incurring the costs of compliance with the proposal. EPA estimated impacts at the facility-level in several ways: using four financial ratios and by estimating closures in two different ways. EPA also estimated firm impacts using return on assets (ROA) and Altman's Z'. EPA also estimated costs in two different ways (*see* Section VII): one estimate assumes that facilities must install each individual technology included in a given option, another option assumes that facilities would be

able to meet the limitations with some fraction of this full cost. More specifically, facilities with nitrification (option 2) already in place would be able to upgrade their existing systems to denitrification and phosphorus removal without incurring the full capital cost of those technologies. These cost estimates are referred to as retrofit costs.

EPA used four financial ratios to estimate impacts. Each of these is a ratio of annualized compliance cost to another measure: revenues, earnings before interest and taxes (EBIT), cash flow, and net income. (EPA used pretax costs for the revenue and EBIT ratios and used the post-tax costs for the net income and cash flow ratios.) These measures are listed in decreasing order and their respective ratios will correspondingly increase for a given cost level. EPA found that these four cost ratios are highly correlated and do not individually provide unique information. That is, for all model facilities EPA found that the cost/revenue ratio is smaller than the cost/EBIT ratio, which is smaller than the cost/cash flow ratio. (This correlation could be a factor of the highly aggregated data on which model facilities are based because this aggregated data masks variability across facilities.) In order to simplify the presentation, EPA chose the ratio of cost/net income as its preferred (central) measure of economic achievability (the results for all of the ratios are presented in the MPP EA).

EPA also estimated the probability that a facility would close, because the cost of compliance exceeded one of the other financial measures. In the analysis, EPA used both cash flow and net income. EPA estimated these probabilities by using the variance and covariance information provided by the Census Bureau to derive the variance of both cash flow and net income. The probability that annualized compliance costs are greater than either of these measures provides a rough estimate of the probability of that facility closing. While EPA believes this approach is promising, EPA has less confidence in these closures estimates for several reasons which are discussed in detail in the MPP EA. Primarily, these estimates predict that improbably large percentages of facilities have negative net income at the baseline. Because EPA has less confidence in these closure numbers, they are not relied upon for economic achievability determinations, but the estimates are presented in the MPP EA.

EPA notes that the use of average ratios could mask considerable variability in economic impacts. This is a shortcoming of the use of model facilities. EPA has attempted to ameliorate this shortcoming to a practicable extent by using multiple model facilities within each subcategory and by being relatively conservative in its choice of average ratios that are deemed economically achievable. EPA also considered using the probability estimates discussed in the previous paragraph but is not relying on them for its economic achievability determinations. EPA is considering, however, refined probability estimates.

As EPA continues to process the data from the detailed survey, we intend to use that data in the economic analysis for the final rule. The use of this more detailed economic data will allow the use of more facilities that better represent financial conditions across the industry and more sophisticated financial techniques such as discounted cash flow models. These models are fully documented in the MPP EA. A discounted cash flow model compares the present value of forecasted cash flow (or, alternatively, net income) with the present value of the regulatory option. If the present value of the regulatory costs exceeds that of the projected cash flow, it does not make financial sense to upgrade the facility. That is, if the present value of projected cash flow is positive before, but negative after, the incurrence of regulatory costs, the facility is presumed to close. For the analysis, cash flow at the facility-level is defined as the sum of net income and depreciation. Cash flow is widely used within industry in evaluating capital investment decisions because both net income and depreciation (which is an accounting offset against income, but not an actual cash expenditure) are potentially available to finance future investment. However, assuming that total cash flow is available over an extended time horizon to finance investments related to environmental compliance could overstate a facility's ability to comply because depreciation is the facility's way of accounting for the cost of replacing existing capital. The facility may not be able to afford this replacement if depreciation is instead allocated to environmental compliance. EPA solicits comment on the economic analysis in this proposal and the methods it is considering for subsequent analyses, particularly the use of cash flow as a measure of resources available to finance environmental compliance and suggestions for alternative methodologies.

EPA also estimated firm-level impacts to take into account the aggregate impacts on firms that own multiple facilities. These impacts could be especially important in a concentrated industry such as the meat and poultry products industry, in which some firms own dozens of facilities. To examine firm-level impacts, EPA employed an Altman Z'-score analysis, which employs a statistical technique called multiple discriminant analysis to predict company bankruptcy based on a weighted combination of financial ratios. The Altman Z'-score is a widely-used tool used to predict firm ''financial distress'' or bankruptcy. It takes into account a company's total assets, total liabilities and earnings, which are influenced by total compliance capital costs incurred by a company because of the proposal as well as pre-tax annualized compliance costs.

The score places firms into three levels of financial health: where financial distress is unlikely, where financial distress is indeterminate, and where financial distress is likely. EPA considered firms that move from an indeterminate or unlikely distress prediction to a likely distress prediction to be at risk of bankruptcy or other serious financial disruption. The actual effects of financial distress are inherently unpredictable and a firm may avoid legal bankruptcy by taking other measures such as laying off employees, closing facilities, or selling assets. These firms still may incur very significant impacts even if they do not file for bankruptcy.

EPA developed a market model to examine the impacts of the proposal on the price and output of various meat and poultry products. The market analysis for each product depends not only on the compliance costs for that product but also on the impact of costs on the prices of the other three meat and poultry products because as prices for one product rise, consumers will purchase less of that product and more of the other three products. EPA selected a perfectly competitive structure for the meat and poultry products market model after performing an extensive literature search. EPA developed standard domestic supply, domestic demand, import supply, and export demand equations for each meat and poultry product. Domestic demand for each meat and poultry product is specified as a function of the price of the other three meat and poultry products in addition to its own price. EPA used USDA data to determine baseline market prices and quantities. Key model parameters (e.g., price elasticities) were selected from existing published sources after an extensive search. For each meat and poultry product market to be in equilibrium, U.S. domestic demand plus foreign

demand (exports) must equal U.S. domestic supply plus foreign sales (imports) at its current market price.

Compliance costs shift the supply curve for each meat and poultry product by the average per-unit compliance cost for that product. Given the supply shift for each product, EPA solves for the post-regulatory set of meat prices that results in equilibrium in all four markets. This solution provides estimates of post-regulatory impacts. Finally, the post-regulatory prices are substituted back into the individual component equations domestic supply, domestic demand, import supply, and export demand for each meat and poultry product. Changes in prices and these quantities for each meat and poultry product measure the market-level impacts of today's proposal.

E. Costs and Impacts of BPT/BCT/BAT Options

Tables VIII.E–1 through VIII.E–5 present the cost and cost/net income results for the options considered by EPA for BPT, BCT, and BAT. These are options 2 through 4 for subcategories A–D, F–I, and J, and options 2 through 5 for subcategories K and L. EPA was unable to identify any direct dischargers that did not have at least option 1 in current use. Costs for this option are therefore zero for direct dischargers and are not presented.

EPA is required to determine economic achievability for individual subcategories and the industry as a whole. Thus, impacts are presented by subcategory. This presentation necessarily masks variability in costs and impacts across different types and sizes of facilities in each subcategory. More detail on these results is presented in Chapters 5 and 6 of the MPP EA. The MPP EA also presents results for the other measures of economic impact discussed in Section IV.E. The following 5 tables exclude the 65 certainty facilities from both costs and facility counts.

TABLE VIII.E–1.—COST AND IMPACTS FOR SUBCATEGORY A–D, BPT/BCT/BAT OPTIONS

[$1999 millions—66 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
2	4.86	0.25	5.49	0.28
3	24.7	1.30	36.3	1.90
4	42.4	2.38	72.3	4.11

TABLE VIII.E–2.—COST AND IMPACTS FOR SUBCATEGORY F–I, BPT/BCT/BAT OPTIONS

[$1999 millions—19 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
2	0.210	0.13	0.221	0.14
3	0.310	0.29	0.415	0.4
4	1.94	1.36	4.28	2.91

TABLE VIII.E–3.—COST AND IMPACTS FOR SUBCATEGORY J, BPT/BCT/BAT OPTIONS

[$1999 millions—21 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
2	0.304	0.68	0.304	0.68
3	2.51	5.70	3.55	8.03
4	2.97	6.74	3.87	8.78

TABLE VIII.E–4.—COST AND IMPACTS FOR SUBCATEGORY K, BPT/BCT/BAT OPTIONS

[$1999 millions—88 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
2	2.52	0.32	2.63	0.34
3	20.1	2.73	29.5	3.98
4	26.1	3.56	37.5	5.14
5	15.5	2.15	40.7	5.61

TABLE VIII.E–5.—COST AND IMPACTS FOR SUBCATEGORY L, BPT/BCT/BAT OPTIONS

[$1999 millions—15 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized ompliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
2	0.156	0.36	0.17	0.39
3	1.28	3.01	1.79	4.23
4	1.78	4.12	2.65	6.04
5	1.00	2.83	2.37	6.71

F. Results of BCT Cost Test

In July 1986, EPA explained how it developed its methodology for setting effluent limitations based on BCT (51 FR 24974). EPA evaluates the reasonableness of BCT candidate technologies—those that remove more conventional pollutants than BPT—by applying a two-part cost test: A POTW test and an industry cost-effectiveness test.

EPA first calculates the cost per pound of conventional pollutant removed by industrial dischargers in upgrading from BPT to a BCT candidate technology, and then compares this cost to the cost per pound of conventional pollutants removed in upgrading POTWs to advanced secondary treatment (*i.e.,* ''the POTW test''). The upgrade cost to industry must be less than the POTW benchmark of $0.25 per pound (in 1976 dollars) or $0.63 per pound (in 1999 dollars). In the industry cost-effectiveness test, the ratio of the cost per pound to go from BPT to BCT divided by the cost per pound to go from raw wastewater to BPT for the industry must be less than 1.29 (that is, the cost increase must be less than 29 percent).

For purposes of this analysis, EPA is assuming that for subcategories A–D, F–I, and J the existing BPT limits are equivalent to the baseline. Thus, EPA is considering only options 2 through 4 as BCT candidate options. All BCT analyses include the 65 certainty facilities.

Table VIII.F–1 presents the calculations for the BCT cost test using both the retrofit and upper-bound costs for subcategories A–D, F–I, and J (those subcategories with existing BPT limits). Option 2 passes the POTW test in subcategories A–D and J, while no other option does in those subcategories, nor do any of the options in subcategory F–I. Options 3 and 4 therefore do not pass the BCT cost test and it is not necessary to perform the industry cost-effectiveness test for these options, nor is it necessary to perform the industry cost-effectiveness test for subcategory F–I. The choice of retrofit versus upper-bound costs does not affect the result of the test (these two costs are identical for option 2, so the cost test result is the same for either set of costs).

TABLE VIII.F–1.—POTW COST TEST CALCULATIONS, SUBCATEGORIES A–J

Option	Conventional pollutant removals (M lbs)	Retrofit costs			Upper-bound cost		
		Pre-tax total annualized costs ($1999 M)	Ratio of costs to removals ($/lb.)	Pass POTW test?	Pre-tax total annualized costs ($1999 M)	Ratio of costs to removals ($/ lb.)	Pass POTW test?
Subcategory A–D							
2	22.5	9.93	0.44	Y	9.93	0.44	Y
3	23.7	42.3	1.78	N	59.5	2.51	N
4	25.6	73.5	2.87	N	118	4.60	N
Subcategory F–I							
2	0.461	0.404	0.88	N	0.404	0.88	N
3	0.503	0.537	1.07	N	0.692	1.38	N
4	0.545	3.53	6.47	N	7.01	12.86	N
Subcategory J							
2	5.94	0.552	0.09	Y	0.552	0.09	Y
3	6.16	4.28	0.70	N	5.80	0.94	N
4	6.62	4.98	0.75	N	6.31	0.95	N

Table VIII.F–2 presents the industry cost-effectiveness test for option 2 for subcategories A–D and J. This option fails the test for subcategories A–D but passes the test for Subcategory J. Thus, BCT is not revised for subcategories A–D or F–I, but BCT is set equal to option 2 for subcategory J.

TABLE VIII.F–2.—INDUSTRY COST-EFFECTIVENESS TEST CALCULATIONS, SUBCATEGORIES A–D AND J

BCT option	RAW–BPT conventional pollutant removals (M lbs)	RAW–BPT pre-tax total annualized costs (1999$ M)	RAW–BPT ratio of costs to removals (1999$ M) [A]	BPT–BCT ratio of costs to removals (1999$/ lb.) [B]	BPT–BCT raw-BPT ratio [B]/[A]	Pass industry cost-effectivenss test?
Subcategory A–D						
2	1,521	270,240,482	0.178	0.40	2.25	No.
Subcategory J						
2	19.63	10,001,886	0.509	0.12	0.24	Yes.

Table VIII.F–3 presents the calculations for the BCT cost test using both the retrofit and upper-bound costs for subcategories K and L. The test is calculated from the proposed BPT option, which is option 3. (If the test were to be conducted from a less stringent option the outcome would not change. These calculations are presented in the MPP EA.) Neither option 4 or option 5, the only options more stringent than BPT for these subcategories, passes the POTW test. These options therefore do not pass the BCT cost test and it is not necessary to perform the industry cost-effectiveness test in these subcategories. Thus, BCT is set equal to BPT for these subcategories. More detail on the calculation and inputs of the BCT tests is contained in the record (Docket No. W–01–06, Record No. 25,002—BCT Analysis for Meat and Poultry Products Point Source Category).

TABLE VIII.F–3.—POTW COST TEST CALCULATIONS, SUBCATEGORIES K AND L

Option	Conventional pollutant removals (M lbs)	Retrofit costs			Upper-bound costs		
		Pre-tax total annualized costs ($1999 M)	Ratio of costs to removals ($/ lb.)	Pass POTW test?	Pre-tax total annualized costs ($1999 M)	Ratio of costs to removals ($/ lb.)	Pass POTW test?
Subcategory K							
3	2.44	34.5	N/A	N/A	48.4	N/A	N/A
4	3.95	44.2	11.20	N	61.3	15.52	N
5	4.79	66.1	13.80	N	66.1	13.80	N
Subcategory L							
3	0.136	2.18	N/A	N/A	2.95	N/A	N/A
4	0.196	3.03	15.48	N	4.32	22.06	N
5	0.230	3.85	16.72	N	3.85	16.72	N

G. Costs and Economic Impacts of PSES Options

Tables VIII.G–1 through VIII.G–5 present the cost/net income results for the options considered by EPA for PSES. These are options 1 through 4 for subcategories A–D, F–I, and J, and options 1 through 54 for subcategories K and L. EPA is required to determine economic achievability for individual subcategories and the industry as a whole. Thus, impacts are presented by subcategory. This presentation necessarily masks variability in costs and impacts across different types and sizes of facilities in each subcategory. More detail on these results is presented in Chapters 5 and 6 of the MPP EA. The MPP EA also presents results for the other measures of economic impact discussed in Section IV.E. All figures in the following five tables exclude the 65 certainty facilities.

TABLE VIII.G–1.—COST AND IMPACTS FOR SUBCATEGORY A–D, PSES OPTIONS

[$1999 millions—60 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-Tax annualized compliance cost	Cost/net income (%)
1	1.83	0.27	4.30	0.57
2	43.3	5.28	91.3	10.4
3	52.4	6.53	59.0	7.21
4	64.4	7.36	74.3	8.14

TABLE VIII.G–2.—COST AND IMPACTS FOR SUBCATEGORY F–I, PSES OPTIONS

[$1999 millions—234 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-Tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
1	6.37	0.46	11.1	0.80
2	31.4	2.32	61.4	4.53
3	50.6	3.71	50.9	3.72
4	67.6	5.05	67.8	5.06

TABLE VIII.G–3.—COST AND IMPACTS FOR SUBCATEGORY J, PSES OPTIONS

[$1999 millions—75 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized	Cost/net income (%)
1	0.511	0.33	0.78	0.50
2	7.59	4.77	14.0	8.78
3	13.9	8.74	17.1	10.79
4	15.0	9.47	18.0	11.36

TABLE VIII.G–4.—COST AND IMPACTS FOR SUBCATEGORY K, PSES OPTIONS

[$1999 millions—138 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
1	3.24	0.28	6.50	0.55
2	54.5	4.20	114	8.71
3	76.8	6.16	81.5	6.53
4	80.5	6.52	83.9	6.80

TABLE VIII.G–5.—COST AND IMPACTS FOR SUBCATEGORY L, PSES OPTIONS

[$1999 millions—208 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
1	5.17	0.87	9.12	1.50
2	34.2	5.23	63.3	9.63
3	45.4	6.99	45.6	7.00
4	58.0	8.95	58.1	8.96

H. Economic Impacts for New Sources

EPA is proposing NSPS limitations equivalent to the limitations that are established for BPT/BCT/BAT for all subcategories. These limitations are economically achievable for existing sources. In general, EPA concludes that new sources will be able to comply at costs that are similar to, or less than, the costs for existing sources. They may be able to comply at lower cost since new sources can apply control technologies more efficiently than sources that need to retrofit for those technologies. Therefore, NSPS limitations will not present a barrier to entry for new facilities.

EPA is not proposing to establish PSES or PSNS limitations for indirect dischargers, so there will be no impacts on new indirect dischargers. EPA solicits comment on whether EPA should set more stringent standards for either direct or indirect new sources.

I. Firm-Level Impacts

For those firms with available data, EPA estimated a baseline Z'-score and a corresponding score after the firm incurred the costs of complying with the proposal. EPA examined the company-level financial data in the detailed survey for the companies with complete and consistent data. This effort yielded 20 companies with appropriate data. These firms include most of the largest beef, pork, and poultry processing companies. These firms own 421

facilities, or an average of 21 facilities each. EPA estimated the number of facilities owned by each company using publicly available information such as trade publications and web sites as well as information from the detailed survey.

Because EPA does not have an exact accounting of the type and size of the facilities owned by each company, EPA estimated total compliance costs for each of these companies by constructing a production-weighted average facility compliance cost for red meat, poultry and rendering facilities. This average was constructed by multiplying the compliance cost for each model facility by its production amount, summing across a given product type (meat or poultry), and dividing by total production in that product type. This average was then multiplied by the number of facilities owned by a company to estimate the total costs for a given company. The costs for the proposed option do not move any companies from unlikely or indeterminate distress to likely distress.

EPA notes that in its recent proposed rules concerning concentrated animal feeding operations (CAFOs), EPA analyzed the potential impacts from costs passed on from the CAFO to the processor (66 FR 3092–30923). Many of these processors are the same companies that are considered in this proposal and EPA estimated that from $34 million to $306 million could be passed from the CAFO to the processor as a result of the CAFO proposal, but EPA was unable to apportion these costs among specific companies. EPA intends to fully account for the potential costs of the final CAFO rule when the MPP guidelines are promulgated. EPA solicits comment on the most accurate method to include these potential costs in the MPP economic analysis.

J. Community Impacts

The communities where the meat products facilities are located may be affected by the proposed regulation if facilities cut back operations, local employment and income may fall, sending ripple effects throughout the local community. Facility-level changes in employment could be used to calculate total employment changes. However, the model facilities used by EPA are not tied to any specific location and thus EPA does not have enough information to estimate community impacts with any level of confidence. EPA plans to conduct an analysis of community-level impacts as part of its post-proposal activities and present these results in a subsequent NODA.

K. Market and Foreign Trade Impacts

Foreign trade impacts are difficult to predict, since agricultural exports are determined by economic conditions in foreign markets and changes in the international exchange rate for the U.S. dollar. However, EPA predicts small projected changes in overall supply and demand for these products and a slight increase in market prices. Thus, foreign trade impacts as a result of the proposed regulations will be minor. Using the market model for meat and poultry products, EPA estimates that the domestic supply and demand for beef, pork, chicken, and turkey all decrease by very slight amounts (all less than 0.1 percent). The decrease in domestic supply ranges from 0.02 percent to 0.05 percent and the decrease in domestic demand ranges from 0.02 percent to 0.04 percent.

Despite its position as one of the largest agricultural producers in the world, historically the U.S. has not been a major player in world markets for red meat (beef and pork) or poultry products. In fact, until recently, the U.S. was a net importer of these products. The presence of a large domestic market for meat and poultry products has limited U.S. reliance on developing export markets for its products. As the U.S. has taken steps to expand export markets for red meat and poultry products, one major obstacle has been that it remains a relatively high cost producer of these products compared to other net exporters, such as New Zealand, Australia, and Latin American countries, as well as other more established and government-subsidized exporting countries, including Canada and the countries in the European Union. Increasingly, however, continued efficiency gains and low-cost feed are making the U.S. more competitive in world markets for these products, particularly for red meat. While today's proposed regulations may raise production costs and potentially reduce production quantities that would otherwise be available for export, EPA believes that any quantity and price changes resulting from the proposed requirements will not significantly alter the competitiveness of U.S. export markets for red meat.

In contrast, U.S. poultry products now account for a controlling share of world trade and exports account for a sizable and growing share of annual U.S. production. Given the established presence of the U.S. in world poultry markets and the relative strength in export demand for these products, EPA does not expect that the predicted quantity and price changes resulting from today's proposed regulations will have a significant impact on the competitiveness of U.S. poultry exports.

As part of its market analysis, EPA evaluated the potential for changes in traded volumes, such as increases in imports and decreases in exports, and concluded that volume trade will not be significantly impacts by today's proposed regulations. EPA estimates that imports of beef will increase by 0.01 percent or less compared to baseline (pre-regulation) levels. In no other sector is there a measurable change in imports. EPA estimates that exports decline by 0.14 percent in the chicken sector, 0.12 percent in the pork sector, 0.09 in the beef sector, and 0.05 percent in the turkey sector. None of these decreases in exports are considered to be significant.

L. Cost-Reasonableness and Cost-Effectiveness Analysis

EPA compared the compliance costs for the proposal against the following three different metrics: Removal of all pollutants in pounds, removal of only toxic pollutants in toxic pound-equivalents, and removal of only nutrients in pounds. Although in recently promulgated effluent guidelines, EPA has relied primarily on the toxic pollutant cost-effectiveness measure for evaluating BAT, that measure is less appropriate for comparing the relative cost-effectiveness of options to control pollutants from the meat and poultry products industry because it discharges relatively more conventional pollutants and nutrients than toxic pollutants. Furthermore, the BCT cost test evaluates the cost-reasonableness of the removal of conventional pollutants (*see* Section VIII.G) a description of the methodology, data, and results of these analyses in more detail is contained in the EA.

a. BPT Cost-reasonableness

Tables VIII.L–1 and VIII.L–2 present the results of the BPT cost-reasonableness analysis for direct dischargers in subcategories A–J and K&L, respectively. These results are presented separately because while the cost-reasonableness test is useful for evaluating the options in subcategories A–J, it is also a statutory criteria for evaluating the BPT options under consideration for subcategories K and L. EPA has historically considered cost/reasonableness ratios as high as $37/lb to be reasonable for BPT. Results are presented using both the retrofit and upper-bound costs.

TABLE VIII.L–1.—COST-REASONABLENESS ESTIMATES, SUBCATEGORIES A–J

Option	Removals (M lbs)	Retrofit costs		Upper-bound costs	
		Pre-tax total annualized costs ($1999 M)	Ave. cost/ lb. removal ($/lb.)	Pre-tax total annualized costs ($1999 M)	Ave. cost/ lb. removal ($/lb.)
Subcategory A–D					
2	12.3	9.9	0.81	9.9	0.81
3	38.7	42.2	1.09	59.5	1.54
4	41.0	73.5	1.79	118	2.88
Subcategory F–I					
2	0.25	0.4	1.59	0.4	1.59
3	2.01	0.5	0.27	0.7	0.34
4	2.02	3.5	1.74	7.0	3.47
Subcategory J					
2	18.3	0.6	0.03	0.6	0.03
3	18.3	4.3	0.23	5.8	0.32
4	18.1	5.0	0.27	6.3	0.35

TABLE VIII.L–2.—COST-REASONABLENESS ESTIMATES, SUBCATEGORIES K AND L

Option	Removals (M lbs)	Retrofit costs		Upper-bound costs	
		Pre-tax total annualized costs ($1999 M)	Ave. cost/ lb. removal ($/lb.)	Pre-tax total annualized costs ($1999 M)	Ave. cost/ lb. removal ($/lb.)
Subcategory K					
2	1.63	4.8	2.95	4.8	2.95
3	7.32	34.5	4.71	48.4	6.61
4	8.1	44.2	5.46	61.3	7.56
5	8.0	66.1	8.23	66.1	8.23
Subcategory L					
2	.09	0.3	3.28	0.3	3.28
3	0.31	2.2	7.11	2.9	9.60
4	0.32	3.0	9.54	4.3	13.59
5	0.32	3.9	11.97	3.9	11.97

For subcategories A–J, no option has a cost-reasonableness greater than $ 3.47/lb using upper-bound costs, or greater than $ 1.79 using retrofit costs. Subcategories K and L show similar magnitudes. The least cost-reasonable option for subcategory K is the most stringent option, option 5, with a cost-reasonableness of $ 8.23. The cost-reasonableness for all of the other options for subcategory K are less than $ 8.00/lb. The cost-reasonableness of the options for subcategory L are slightly higher, the least cost-reasonable is option 4 with upper-bound costs, at $ 14/lb. All of these figures are well within the cost-reasonableness of previously promulgated BPT standards.

b. Toxic Cost-Effectiveness

The results of the toxic cost-effectiveness analysis are expressed in terms of the costs (in 1981 dollars) per pound-equivalent removed, where pounds-equivalent removed for a particular pollutant is determined by multiplying the number of pounds of a pollutant removed by each option by a toxic weighting factor. The toxic weighting factors account for the differences in toxicity among pollutants and are derived using ambient water quality criteria. Cost effectiveness results are presented in 1981 dollars as a reporting convention. Cost-effectiveness is calculated as the ratio of pre-tax annualized costs of an option to the annual pounds-equivalent (lb-eq) removed by that option, and can be expressed as the average or incremental cost-effectiveness for an option.

Average cost-effectiveness can be thought of as the ''increment'' between no regulation and the selected option for any given rule. Incremental cost-effectiveness measures the relative cost-effectiveness for two options and is the appropriate measure for comparing one regulatory option to another regulatory option for the same subcategory. Toxic cost-effectiveness results by subcategory and option are presented for direct dischargers in Table VIII.L–3 and indirect dischargers in Table VIII.L–4. The options are listed in order of increasing removals. Toxic cost-effectiveness is presented using both retrofit and upper-bound costs.

TABLE VIII.L–3.—TOXIC COST-EFFECTIVENESS, DIRECT DISCHARGERS

Option	Total pounds removed	Retrofit costs			Upper bound costs		
		Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness	Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness ($1981/pounds equivalent)
Subcategory A Through D							
BAT 2	93,586	NA	NA	NA	$9.93	$62	$62
BAT 3	93,687	$42.25	$263	NA	$59.52	$371	$286,414
BAT 4	94,195	$73.53	$455	$35,930.0	$117.98	$731	$67,154
Subcategory E Through I							
BAT 2	2,609	NA	NA	NA	$0.40	$90	$90
BAT 3	2,618	$0.54	$120	NA	$0.69	$154	$18,512
BAT 4	2,615	$3.53	$787	($597,188.0)	$7.01	$1,564	($1,216,372)
Subcategory J							
BAT 2	1,550	NA	NA	NA	$0.55	$208	$208
BAT 3	1,621	$4.28	$1,540	NA	$5.80	$2,089	$43,028
BAT 4	1,553	$4.98	$1,871	(5,991.0)	$6.31	$2,370	($4,333)
Subcategory K							
BAT 2	63,192	NA	NA	NA	$4.82	$45	$45
BAT 3	64,094	$34.46	$314	NA	$48.37	$440	$28,181
BAT 4	64,029	$44.21	$403	($87,773.00)	$61.25	$558	($115,860)
BAT 4	65,169	$66.09	$592	NA	$66.09	$592	$2,479
Subcategory L							
BAT 2	373	NA	NA	NA	$0.30	$472	$472
BAT 3	383	$2.18	$3,329	NA	$2.95	$4,494	$160,314
BAT 4	371	$3.03	$4,769	($43,685.00)	$4.32	$6,796	($70,689)
BAT 5	398	$3.85	$5,645	NA	$3.85	$5,645	($10,190)

TABLE VIII.L–4.—TOXIC COST-EFFECTIVENESS, INDIRECT DISCHARGERS

Option	Total pounds removed	Retrofit costs			Upper bound costs		
		Pretax annualized cost (Millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness ($1981/pounds equivalent)	Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness ($1981/pounds equivalent)
Subcategory A through D							
PSES1	240,421	NA	NA	NA	$7.05	$17	$17
PSES2	310,768	NA	NA	NA	$151.49	$284	$1,198
PSES3	309,081	$86.42	$163	NA	$96.25	$182	$19,107
PSES4	309,541	$105.86	$200	$24,671	$120.64	$227	$30,955
Subcategory E through I							
PSES1	76,890	NA	NA	NA	$18.79	$143	$143
PSES2	78,831	NA	NA	NA	$102.09	$756	$25,036
PSES3	78,855	$83.25	$616	NA	$83.68	$619	($440,522)
PSES4	78,813	$109.82	$813	($368,189)	$110.20	$816	($367,437)
Subcategory J							
PSES1	3,918	NA	NA	NA	$1.33	$198	$198
PSES2	4,983	NA	NA	NA	$23.25	$2,723	$12,011
PSES3	5,112	$23.09	$2,635	NA	$27.91	$3,185	$21,075
PSES4	4,951	$24.78	$2,920	($6,157)	$29.22	$3,443	($4,757)
Subcategory K							
PSES1	377,651	NA	NA	NA	$10.84	$17	$17
PSES2	382,550	NA	NA	NA	$188.95	$288	$21,212
PSES3	382,735	$126.00	$192	NA	$133.01	$203	($176,292)

TABLE VIII.L–4.—TOXIC COST-EFFECTIVENESS, INDIRECT DISCHARGERS—Continued

Option	Total pounds removed	Retrofit costs			Upper bound costs		
		Pretax annualized cost (Millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness ($1981/pounds equivalent)	Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness ($1981/pounds equivalent)
PSES4	381,751	$131.39	$201	($3,196)	$136.54	$209	($2,093)
Subcategory L							
PSES1	49,950	NA	NA	NA	$15.26	$178	$178
PSES2	51,257	NA	NA	NA	$105.33	$1,199	$40,224
PSES3	51,367	$74.25	$843	NA	$74.56	$847	($162,814)
PSES4	51,237	$93.89	$1,069	($88,323)	$94.11	$1,072	($87,885)

The average toxic cost-effectiveness values for the selected options generally range from $120/lb-eq to $400/lb-eq. The average toxic cost-effectiveness values for subcategory L are an exception, and are estimated at $3,329/lb-eq or $4,494/lb-eq. For all subcategories except J, the incremental toxic cost-effectiveness is extremely high by historic standards (see Appendix B of the EA for a comparison) however, control of toxic pollutants is not the main goal of the proposal. Rather, EPA focused primarily on cost-reasonableness (for total pounds) and nutrient cost-effectiveness in selecting among options.

c. Nutrient Cost-Effectiveness

EPA also has calculated the cost-effectiveness of the removal of nutrients for the options considered in today's proposal. As a basis of comparison, EPA has estimated that the average cost-effectiveness of nutrient removal by POTWs with biological nutrient removal is $4/lb for nitrogen and $10/lb for phosphorus.

Tables VIII.L–5 and VIII.L–6 present the results of the nutrient cost-effectiveness analysis for direct and indirect dischargers, respectively. The options are listed in order of increasing removals. Toxic cost-effectiveness is presented using both retrofit and upper-bound costs.

TABLE VIII.L–5.—NUTRIENT COST-EFFECTIVENESS, DIRECT DISCHARGERS

Option	Total pounds removed	Retrofit costs			Upper bound costs		
		Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1999/pounds eqivalent)	Incremental cost effective-ness ($1999/pounds equivalent)	Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1999/pounds equivalent)	Incremental cost effective-ness ($1999/pounds equivalent)
Subcategory A Through D							
BAT 2	1,972,012	NA	NA	NA	$9.93	$5.0	$5.0
BAT 3	42,818,320	$42.25	$1.0	NA	$59.52	$1.4	$1.2
BAT 4	44,916,551	$73.53	$1.6	$14.9	$117.98	$2.6	$27.9
Subcategory E through I							
BAT 2	35,700	NA	NA	NA	$0.40	$11.3	$11.3
BAT 3	2,115,639	$0.54	$0.3	NA	$0.69	$0.3	$0.1
BAT 4	2,120,199	$3.53	$1.7	$656.1	$7.01	$3.3	$1,385.8
Subcategory J							
BAT 2	86,772	NA	NA	NA	$0.55	$6.4	$6.4
BAT 3	482,224	$4.28	$8.9	NA	$5.80	$12.0	$13.3
BAT 4	531,196	$4.98	$9.4	$14.3	$6.31	$11.9	$10.3
Subcategory K							
BAT 2	809,883	NA	NA	NA	$4.82	$6.0	$6.0
BAT 3	8,371,827	$34.46	$4.1	NA	$48.37	$5.8	$5.8
BAT 4	8,870,390	$44.21	$5.0	$19.6	$61.25	$6.9	$25.8
BAT 5	8,856,078	$66.09	$7.5	NA	$66.09	$7.5	($338.4)
Subcategory L							
BAT 2	0	NA	NA	NA	$0.30	NA	NA
BAT 3	320,160	$2.18	$6.8	NA	$2.95	$9.2	$8.3
BAT 4	318,194	$3.03	$9.5	($432.9)	$4.32	$13.6	($700.6)
BAT 5	334,187	$3.85	$11.5	NA	$3.85	$11.5	$29.5

TABLE VIII.L–6.—NUTRIENT COST-EFFECTIVENESS, INDIRECT DISCHARGERS

Option	Total pounds removed	Retrofit costs			Upper bound costs		
		Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1999/pounds equivalent)	Incremental cost effective-ness ($1999/pounds equivalent)	Pretax annualized cost (millions of $1999)	Average cost effectivess ($1999/pounds equivalent)	Incremental cost effective-ness ($1999/pounds equivalent)
Subcategory A Through D							
PSES1	907,327	NA	NA	NA	$7.05	$7.77	$7.77
PSES2	1,573,317	NA	NA	NA	$151.49	$96.29	$216.88
PSES3	33,837,795	$86.42	$2.55	NA	$96.25	$2.84	($1.71)
PSES4	35,215,559	$105.86	$3.01	$14.11	$120.64	$3.43	$17.70
Subcategory E Through I							
PSES1	1,997,640	NA	NA	NA	$18.79	$9.41	$9.41
PSES2	1,510,007	NA	NA	NA	$102.09	$67.61	($170.82)
PSES3	4,616,635	$83.25	$18.03	NA	$83.68	$18.13	($5.93)
PSES4	4,603,357	$109.82	$23.86	($2,001.07)	$110.20	$23.94	($1,996.98)
Subcategory J							
PSES1	8,233,864	NA	NA	NA	$1.33	$0.16	$0.16
PSES2	146,708	NA	NA	NA	$23.25	$158.51	($2.71)
PSES3	10,194,886	$23.09	$2.26	NA	$27.91	$2.74	$0.46
PSES4	10,379,498	$24.78	$2.39	$9.18	$29.22	$2.82	$7.09
Subcategory K							
PSES1	5,468,191	NA	NA	NA	$10.84	$1.98	$1.98
PSES2	2,827,350	NA	NA	NA	$188.95	$66.83	($67.45)
PSES3	18,404,976	$126.00	$6.85	NA	$133.01	$7.23	($3.59)
PSES4	19,217,341	$131.39	$6.84	$6.63	$136.54	$7.11	$4.34
Subcategory L							
PSES1	2,715,456	NA	NA	NA	$15.26	$5.62	$5.62
PSES2	1,893,734	NA	NA	NA	$105.33	$55.62	($109.61)
PSES3	5,911,953	$74.25	$12.56	NA	$74.56	$12.61	($7.66)
PSES4	5,936,000	$93.89	$15.82	$769.90	$94.11	$15.85	$792.95

The nutrient cost-effectiveness for the selected options varies by subcategory from $0.10/lb to $8.30/lb. These values are all within the approximate benchmarks determined by EPA for phosphorus. In fact, for Subcategories A–I, Option 3 is more cost-effective (in terms of nutrients) than Option 2 and is well within the benchmark for nitrogen as well. For subcategories J, K, and L, the nutrient cost-effectiveness numbers for the proposed options range from $5.80 to $9.20 per pound. These exceed the benchmark for nitrogen. When broken out by nitrogen and phosphorus, Option 2 meets the individual benchmarks, but option 3 does not for subcategories K and L. These options thus may not be cost-effective for nutrient removal.

M. Small Business Analysis

EPA analyzed the economic impacts on small businesses in order to comply with its obligations under the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act. The RFA provides that the default definitions for small businesses are based on size standards determined by the Small Business Administration (SBA). The standards are for firms, not facilities, and are based on NAICS codes. The size standard for all of the NAICS codes in the meat and poultry products industry is 500 employees.

The first step in the analysis was determining how many facilities in the industry are owned by small businesses and how many are owned by large businesses. EPA took two separate approaches to make this determination and compared the estimates to information from other sources on the number of facilities owned by large businesses to determine which was more accurate. The first approach relied on data from the SBA website on the number of firms and facilities of a certain size; this data was provided under a special contract with the Census Bureau and matches the employment classes used in the Census of Manufacturers. The second approach relied on data from the screener survey.

Using the SBA/Census data, EPA first checked the employment class for each model facility. If the model facility was in an employment class exceeding 500, then all facilities controlled by the same firm were assumed to be large business owned. If not, then EPA assigned to that model facility the ratio of facilities to establishments for the corresponding employment class in the SBA/Census special study. Multiplying that ratio by the number of facilities represented by the model facility resulted in our estimate of small business owned facilities.

For example, suppose the model facility for R12, medium was in the 100–249 employee class, and the SBA/Census special study tells us that for NAICS 311611, there are 200 firms and 210 facilities with 100–500 employees. In that case, we assumed 95% of R12, medium facilities were stand alone small businesses, and 5% of R12,

medium facilities were large business owned.

As an alternative to the estimates from the SBA/Census data, EPA also examined responses from the screener survey, which asks for facility and company employment for each facility. EPA then compared the resulting estimates of the numbers of businesses from each alternative approach to information from the various sources in the industry profile on the number of facilities owned by large businesses. For all the subcategories except rendering, the SBA/Census data appeared to provide more accurate comparative estimates and was used to generate the numbers of small and large businesses. EPA used the screener survey to generate this data for rendering facilities. EPA determined that none of the certainty facilities are owned by small businesses.

EPA estimates the 73 facilities owned by small businesses will be affected by this regulation: 69 nonsmall facilities in subcategories A–K with new BPT/BCT/BAT requirements and 4 small facilities in Subcategory L subject to new BPT requirements. Average cost/sales ratios for facilities owned by small businesses are presented in Table VIII.M–1 as well as the range of cost/sales ratios calculated for those facilities. Average cost/net income ratios for facilities owned by small businesses are presented in Table VIII.M–2 with the range of cost/net income ratios calculated for those facilities. The ranges are generated by calculating the ratios for each of the model facilities that make up each subcategory. The average ratio is thus a weighted average of the ratios for the model facilities. Therefore, this average ratio may vary from the ratio for the subcategory as a whole.

TABLE VIII.M–1.—COST/SALES RATIOS FOR SMALL BUSINESS-OWNED FACILITIES, SELECTED OPTIONS

Subcategory	Number of small business-owned facilities	Cost/net income (%)		
		Average	Low	High
A–D	5	0.02	0.25	0.25
F–I	10	0.07	0.01	0.27
J	12	0.17	0.17	0.17
K	28	0.58	0.37	1.00
L (nonsmall)	12	0.55	0.27	0.59
L (small)	4	0.20	0.20	0.20

TABLE VIII.M–2.—COST/NET INCOME RATIOS FOR SMALL BUSINESS-OWNED FACILITIES, SELECTED OPTIONS

Subcategory	Number of small business-owned facilities	Cost/net income (%)		
		Average	Low	High
A–D	5	0.25	0.25	0.25
F–I	10	0.55	0.09	2.03
J	12	0.68	0.68	0.68
K	28	6.82	5.03	8.94
L (nonsmall)	12	4.87	2.03	5.31
L (small)	4	2.44	2.44	2.44

IX. Water Quality Analysis and Environmental Benefits

A. Qualitative Description of Water Quality Benefits

EPA evaluated the environmental benefits of controlling the discharges of conventional pollutants from meat and poultry production industry (MPP) facilities to surface waters in national analyses of direct and indirect discharges. EPA used the National Water Pollution Control Assessment Model (NWPCAM version 1.1) to model the instream Dissolved Oxygen (DO) concentration, as influenced by pollutant reductions of BOD_5, Total Kjeldahl Nitrogen (TKN), Total Suspended Solids (TSS) and Fecal Coliform (FC). Based upon each reach mile concentration of DO, BOD_5, FC and TSS, EPA estimated the change in each reaches' use category. The use categories ladder is as follows, from poorest to best: No use, boatable, fishable, and swimmable; where swimmable waters are most desirable.

EPA modeled a sample set of 97 facilities. EPA estimates that the proposed rule will improve overall use of 17 to 28 reach miles for the sample set. Scaling these results to represent the nation level of 246 facilities, EPA estimates the national improvement in overall use to be 29 to 49 reach miles. The national monetized benefits for this overall use improvement range from $15.5 million to $16.1 million.

B. Facilities Modeled

EPA estimates that 246 red meat, poultry, and rendering facilities are covered under this proposed rule. EPA mailed out 350 detailed surveys to generate both environmental and economic data. EPA received 241 detailed surveys in time for data analysis of this proposed rule making (*see* Section V.B). Of the 241 detailed surveys, EPA was able to model the environmental impacts of 97 facilities (36 direct dischargers and 61 indirect dischargers). EPA did not evaluate: (1) 79 facilities which report storing water in on-site lagoons or land applying their wastewater; or (2) 65 facilities for which EPA had insufficient data to conduct the water quality analysis.

C. Pollutants of Concern

EPA identified 30 pollutants of concern for the meat processing segment of the industry and 27 pollutants of concern for the poultry processing segment of the industry (*see* Section V.C). This list includes Ammonia as Nitrogen, Carbonaceous BOD_5, Chemical Oxygen Demand (COD), Nitrate +Nitrite (as Nitrogen), Hexane Extractable Method (HEM), Oil and Grease, Total Recoverable Oil and Grease, pH, Temperature, Total Nitrogen and Total Phosphorous (as PO_4).

Discharges of these pollutants of concern into freshwater and estuarine

ecosystems may alter aquatic habitats and adversely affect aquatic biota. For example, habitat degradation can result from increased suspended particulate matter that reduces light penetration, and thus primary productivity, or from accumulation of suspended particles that alter benthic spawning grounds and feeding habitats. Nutrients, including phosphorus and nitrogen are the primary causes of surface water eutrophication, which can reduce dissolved oxygen content of waterbodies to levels insufficient to support fish and invertebrates. Eutrophication may also increase the incidence of harmful algal blooms which release toxins as they die and can severely affect wildlife as well as humans.

BOD_5 and COD are important measures of the organic content of an effluent. When effluents with high BOD_5 or COD are discharged to surface waters, the process of microbial degradation of organic compounds can, under certain conditions, reduce dissolved oxygen levels in receiving water bodies below the threshold necessary to support aquatic life. Additionally, meat and poultry processing raw wastewaters contain significant amounts of organic nitrogen which rapidly breaks down into ammonia which, if left untreated, are a direct toxicant to aquatic communities. Oil and grease are known to produce toxic effects on aquatic organisms (*i.e.,* fish, crustacea, larvae and eggs, gastropods, bivalves, invertebrates, and flora). Pathogens are known to impact a variety of water uses including recreation, drinking water sources, and aquatic life and fisheries (Docket No. W–01–06, Record No. 10024).

D. Benefits Modeling Methodology

EPA chose to use the National Water Pollution Control Assessment Model (NWPCAM) version 1.1 to estimate environmental impacts to surface water quality resulting from implementation of various scenarios for regulating MPP facilities. Specifically, EPA developed NWPCAM v1.1 to model instream Dissolved Oxygen (DO) concentration, as influenced by pollutant reductions of BOD_5, Total Kjeldahl Nitrogen (TKN), Total Suspended Solids (TSS) and Fecal Coliform (FC). Based upon each reach mile concentration of DO, BOD_5, FC and TSS, EPA estimates the change in each reaches' use category. The use categories ladder is as follows, from poorest to best: 0 = no use; 1 = boatable; 2 = fishable; and 3 = swimmable (where swimmable waters are most desirable).

The NWPCAM is a national-scale water quality model that characterizes water quality conditions for the Nation's network of river and streams. As of present, the NWPCAM v1.1 only models DO, BOD_5, Fecal Coliform, TKN and TSS. EPA is presently working to modify the model to include the following: (1) Modeling of nutrients for an eutrophication analysis of ponds and lakes; and (2) modeling of other pollutants for rivers and streams. This model update should be completed in time for the final rule.

Since the meat and poultry processing industry waste streams are mostly non-toxic organic pollutants, EPA is satisfied that NWPCAM v1.1 models the majority of pollutant pounds generated by the 97 MPP facilities included in this rule making. However, for this reason, EPA acknowledges that the environmental impacts and benefits are probably underestimated.

In addition, EPA did not evaluate the impact on receiving waters from conventional pollutants (BOD_5, TSS, Oil and Grease and Fecal Coliform) and other pollutants (metals, nutrients) which pass through the POTW (*see* Section XI.B). EPA is, however, soliciting comment on whether pretreatment standards are necessary for this industry and how EPA should model these potential benefits from controls on MPP indirect dischargers.

E. Modeled Technology Option Scenarios

EPA estimated the benefits from the improvements in water quality expected for 8 different scenarios of the various regulatory options.

TABLE IX.E–1.—BENEFITS SCENARIOS MODELED

Scenario	Regulatory options [1]
1	BAT2
2	BAT3
3	BAT4
4	BAT2 + PSES1
5	BAT3 + PSES1
6	BAT4 + PSES1
7	BAT3 (meat, poultry), BAT2 (rendering)
8	BAT3 (meat, poultry), BAT2 (rendering) + PSES1

Note 1: BAT options apply to within scope direct dischargers and PSES options apply to within scope indirect dischargers (*see* Section III).

The regulatory options evaluated for direct dischargers were:

BAT2: Dissolved Air Flotation (DAF) (advanced oil/water separation), Lagoon, and Disinfection (Oil and Grease, BOD_5, TSS, Pathogen removal) + Nitrification (Ammonia (NH3) removal)

BAT3: BAT2 + Denitrification (Nitrogen removal)

BAT4: BAT3 + (Phosphorus removal)

The regulatory Options evaluated for indirect dischargers were:

PSES1: DAF, Equalization (Oil and Grease, TSS, removal)

F. Documented Impacts and Permit Violations

EPA identified 10 articles documenting environmental impacts due to meat and poultry processing facilities. Documented impacts include 4 reaches with nutrient loadings, 2 sites with contaminated well water, 1 site with contaminated ground water, and 1 lake threatened by nutrient loadings. EPA also documented 20 permit violations by meat and poultry processing facilities. The permit levels mostly violated are NH_3–N, PO_4, and TSS.

EPA identified 18 articles which document legal action in criminal cases taken against meat and poultry processing facilities. Documented legal action includes: (1) Conspiracy of 5 facilities to violate the CWA; (2) one case of illegal dumping of waste; and (3) five cases of falsifying records, diluting waste samples and or destroying records. These legal actions resulting in 3 possible cases of incarceration and fines ranging from $0.25 million to $12.6 million. All of these articles and permit violations are documented in the record (Docket No. W–01–06, Record No. 10033).

G. Modeled Water Quality Impacts

The environmental analysis for 97 meat and poultry processing facilities is presented in Table IX.G–1. EPA estimates that the proposed rule would decrease end-of-pipe pollutant loadings 10 percent for all subcategories. The baseline load of 49.9 million lbs/yr (BOD_5, TSS, Nitrogen, Phosphorus and TKN) would be reduced to 45.1 million lbs/yr. The recommended treatment option would result in the over-all use improvement of 21 river miles at the sample set, and approximately 36 miles at the national level.

TABLE IX.G–1.—MODELED ENVIRONMENTAL BENEFITS (97 FACILITIES)

Scenario	Regulatory options	Pollutant [1] Load (million lbs/yr)	Pollutant Reduction (percent)	Overall use improvement [2] (reach miles)	
				Sample	National
Baseline		49.9			
1	BAT2	47.5	5	17	29
2	BAT3	45.0	10	21	36
3	BAT4	44.8	10	21	36
4	BAT2 + PSES1	36.2	27	24	41
5	BAT3 + PSES1	33.7	32	28	48
6	BAT4 + PSES1	33.5	33	21	36
7	BAT3 (meat, poultry), BAT2 (Rendering)	45.1	10	21	36
8	BAT3 (meat, poultry), BAT2 (Rendering) + PSES1	33.7	32	28	48

Note 1: Baseline = 49.9 Million lbs/yr. Pound totals include BOD, TSS, Nitrogen, Phosphorus and TKN from 97 facilities. Some overlap between categories may be occurring

Note 2: Sample set represents 97 facilities. National set represents 246 facilities. Of the 246 facilities represented, 79 facilities are zero dischargers, and therefore do not contribute to these modeled water quality impacts/improvements.

H. Monetized Water Quality Benefits

Economic benefits associated with the meat and poultry products scenarios are based on incremental changes in water quality use-support (i.e., boatable, fishable, swimmable) and the population benefitting from the changes. Benefits are calculated state-by-state at the State (local) scale as well as at the national level. For each State, benefits at the local-scale represent the value that the State population is willing to pay for improvements to waters within the State or adjoining the State. For each State, benefits at the national-scale represent the value that the State population is willing to pay for improvements to waters in all other states in the continental United States. EPA solicits comment on additional methods for estimating and monetizing benefits.

Table IX.H–1 summarizes the resulting estimates of economic benefits for each of the six regulatory scenarios analyzed. Based on the subset of facilities included in the NWPCAM analysis, the total national willingness-to-pay (WTP) benefits at the local-scale for all water quality use-supports ranged from approximately $15.5 million for BAT2 to $16.1 million for BAT4 + PSES1. EPA estimates that the annual benefits of the proposed regulatory action (i.e., Scenario 7) is $15.6 million per year. Since these benefits are for a subset of the facilities regulated by the proposal, they should not be compared to the total costs of the rule. EPA estimates that the costs for Scenario 7 for the facilities included in the benefits analysis are $33.7 million. If the ratio of costs to benefits for these facilities is the same as the ratio of costs to benefits for all facilities, the total benefits of the rule would be $37.0 million.

TABLE IX.H–1.—MODELED ENVIRONMENTAL BENEFITS (97 FACILITIES)

Scenario	Regulatory options	Monetized benefits ($1999 million)
1	BAT2	15.5
2	BAT3	15.6
3	BAT4	15.6
4	BAT2 + PSES1	15.9
5	BAT3 + PSES1	16.0
6	BAT4 + PSES1	16.1
7	BAT3 (meat, poultry), BAT2 (Rendering).	15.6
8	BAT3 (meat, poultry), BAT2 (Rendering) + PSES1.	16.0

X. Non-Water Quality Environmental Impacts

Sections 304(b) and 306(b) of the Clean Water Act require EPA to consider non-water quality environmental impacts (including energy requirements) associated with effluent limitations guidelines and standards. To comply with these requirements, EPA considered the potential impact of the proposed MPP rule on energy consumption, air emissions, and solid waste generation. A discussion of the proposed technology options is given in Section VII of this preamble. Considering energy use and environmental impacts across all media, the Agency has determined that the impacts identified in this section are justified by the benefits associated with compliance with the proposed limitations and standards. Section X.A discusses the energy requirements for implementing wastewater treatment technologies at MPP facilities. Section X.B presents the impact of the proposed technologies on air emissions, and section X.C discusses the impact on wastewater treatment sludge generation.

A. Energy Requirements

EPA estimates that compliance with this rule will result in a small net decrease in energy consumption at non-small MPP facilities that are direct dischargers and no change in energy consumption at all MPP facilities that are indirect dischargers (as EPA is proposing no PSES and PSNS for all MPP subcategories) (*see* Section III.A.1 for EPA's definition of small and non-small facilities). EPA did, however, estimate the energy consumption at non-small MPP facilities that are indirect dischargers and noted a small net increase in energy consumption. Table X.A–1 and X.A–2 present estimates of energy usage by technology option for both non-small direct and indirect dischargers, respectively. For the selected proposal technology options, EPA estimates that there will be a reduction in total annual energy use across all non-small direct dischargers (a net reduction of 144 million KWH/yr). This is a relatively small net reduction in comparison with the total annual amount of energy purchased by non-small direct facilities (2,929 million KWH/yr). There are no incremental energy use impacts for direct dischargers that are small poultry slaughterers (subpart K) or small poultry further processors (subpart L) as all of these small facilities are currently implementing the proposed limitations and standards (Docket No. W–01–06, Record No. 00168).

TABLE X.A–1.—INCREMENTAL ENERGY USE FOR EXISTING NON-SMALL MPP FACILITIES, DIRECT DISCHARGERS

40 CFR part 432 subcategory groupings [1]	Total Energy purchased per non-small MPP facility (million KWH/fac.-yr)	Incremental MPP WWTP energy use per non-small MPP facility in units of million KWH/fac.-yr and total energy usage percent Increase per non-small MPP facility [% increase]			
		BAT2	BAT3	BAT4	BAT5
A, B, C, D	11.42	0.0221 [0.19%]	−0.9324 [−8.89%]	−1.0759 [−10.40%]	NA
F, G, H, I	13.46	0.0017 [0.01%]	−0.0239 [−0.18%]	−0.0354 [−0.26%]	NA
J	5.47	0 [0.00%]	−0.2415 [−4.62%]	−0.261 [−5.01%]	NA
K	13.53	0.0031 [0.02%]	−0.627 [−4.86%]	−0.6076 [−4.70%]	−0.6033 [−4.67%]
L	13.46	0.0021 [0.02%]	−0.1088 [−0.81%]	−0.1094 [−0.82%]	−0.1519 [−1.14%]

Note 1: Small Processors (Subpart E) are not covered under the proposal (*see* Section III.A.1) and do not have any net incremental NWQIs (including energy usage).

TABLE X.A–2.—INCREMENTAL ENERGY USE FOR EXISTING NON-SMALL MPP FACILITIES, INDIRECT DISCHARGERS

40 CFR part 432 subcategory groupings[1]	Total energy purchased per non-small MPP facility (million KWH/fac.-yr)	Incremental MPP WWTP energy use per non-small MPP facility in units of million KWH/fac.-yr and total energy usage percent increase per non-small MPP facility [% Increase]			
		PSES1	PSES2	PSES3	PSES4
A, B, C, D	11.42	0.2644 [2.26%]	4.5467 [28.48%]	2.0473 [15.20%]	1.6061 [12.33%]
F, G, H, I	13.46	0.1227 [0.90%]	0.6021 [4.28%]	0.3404 [2.47%]	0.3137 [2.28%]
J	5.47	0.0243 [0.44%]	0.4617 [7.78%]	0.0061 [0.11%]	−0.0547 [−1.01%]
K	13.53	0.1423 [1.04%]	2.6724 [16.49%]	0.9385 [6.49%]	0.8078 [5.63%]
L	13.46	0.0995 [0.73%]	0.6519 [4.62%]	0.3194 [2.32%]	0.2933 [2.13%]

Note 1: Small Processors (Subpart E) are not covered under the proposal (*see* Section III.A.1) and do not have any net incremental NWQIs (including energy usage).

The Direct Option BAT3 results in a net decrease in energy use. This is a result of the nitrification/denitrification process (BAT3) utilizing less oxygen and less mixing than the nitrification process (BAT2). Oxygen transfer and mixing operations require energy to run blowers and mixers, respectively. The electrical energy costs of a fully nitrifying wastewater treatment plant (WWTP) can typically be reduced by approximately 20% by implementation of denitrification with influent BOD as the necessary organic carbon source (Docket No. W–01–06, Record No. 00166).

EPA used facility count, wastewater flow, and treatment-in-place data from the Screener Survey and Detailed Survey to develop the previous energy use estimations. The MPP Development Document provides more detailed information on the development of these energy use estimations.

B. Air Emissions Impacts

The Agency believes that the end-of-pipe technologies included in the technology options for this rule do not generate significant incremental air emissions either directly from the facility or indirectly through increased air emissions impact from the electric power generation facilities providing the additional energy.

Odors are the only significant air pollution problem associated with MPP facility wastewater treatment. Malodorous conditions usually occur in anaerobic waste treatment processes or localized anaerobic environments within aerobic systems. However, it is generally agreed that anaerobic tanks and ponds will not create serious odor problems unless the process water has a high sulfate content. The proposed technology options will not significantly increase odors as the proposed technology options do not create additional amounts of methane.

The anaerobic contact tank or pond odor is unpredictable as evidenced by the few facilities that have odor problems without sulfate waters (Docket No. W–01–06, Record No. 00162). Facilities generally utilized a scum layer on the anaerobic contact tank or pond to minimize odors (Docket No. W–01–06, Record No. 10034). Additionally, covers and collectors of off-gases from tanks or ponds may also control odors. If the off-gas has sufficient methane content it can then be recovered for energy or burned in a flare. Dissolved air flotation systems can also generate localized odors if facilities do not: (1) Properly remove the skimmings or grease-containing solids; or (2) provide sufficient ventilation around the treatment system if it is located indoors. Odors can best be controlled by elimination, at the source, in preference to treatment for odor control.

EPA visited several MPP facilities that EPA considered to be operating the selected proposal technology options. None of these BAT facilities had odor control problems. One MPP WWTP operator noted that his facility, which

operates BAT5 technology (biological nutrient removal with disc filter), has had no odor control problem since the installation of his new WWTP even with private residences located within ¼ mile of the WWTP (Docket No. W–01–06, Record No. 00154).

As previously stated, EPA estimates an annual net energy reduction of 144 million KWH for the selected proposal technology options. EPA is proposing no PSES or PSNS regulatory controls for indirect dischargers. This annual net energy reduction, however, is small compared with the amount of energy used by MPP direct dischargers (2,929 million KWH/yr) and trivial when compared with the total electricity used by the entire United States in 1999 (3,501 billion KWH) (Docket No. W–01–06, Record No. 00139).

C. Solid Waste Generation

The most significant non-water quality environmental impact (NWQI) is the generation of additional solids from MPP WWTP. These additional solids are generally nonhazardous. Some solids are recovered for additional processing (rendering) and are not considered solid wastes or NWQIs. Screening devices of various design and operating principles are used primarily for removal of large-scale solids (*e.g.,* feathers, large animal particles) from the meat and poultry processing facility raw water before the raw water reaches the headworks of the WWTP. These large-scale solids have economic value as inedible rendering raw material.

The organic and inorganic solid material separated from the MPP wastewater, including chemicals added to aid solids separation, is called sludge. Typically, this sludge contains 95 to 98 percent water before dewatering. The raw sludge can be concentrated, digested, dewatered, dried, incinerated, land-filled, or spread in sludge holding ponds. Facilities may use combinations of these sludge management options for different periods of the year. A WWTP operator for a poultry slaughtering facility, which utilizes BAT5 technology, noted that sludges from his facility are used as a soil amendments via spray irrigation for crops raised on the facility's property, while during the off-growing season (July through March) these sludges are kept in a lagoon. The operator pays a fee for land application of the WWTP sludge. EPA noted during site visits to two independent rendering operations that sludges from dissolved air floatation units which use chemical additions to promote solids separation are rendered, however, the chemical bond between the organic matter and the polymers requires that the sludges be processed (rendered) at higher temperatures (260 °F) and longer retention times (Docket No. W–01–06, Record No. 10042). EPA estimates that compliance with this proposed rule will result in a decrease in wastewater treatment sludges at MPP facilities.

For the selected proposal technology options, EPA estimates that there will be a 3.4% reduction in total annual sludge production across all non-small direct dischargers (a net reduction of approximately 16,500 tons/yr). This is a relatively small net reduction in comparison with the current total annual amount of sludge production by non-small direct facilities (approximately 500,000 tons/yr). Tables X.C–1 and X.C–2 present the amount of wastewater treatment sludge expected to be reduced at non-small facilities as a result of implementing each of the technology options. There are no incremental sludge generation impacts for direct dischargers that are small poultry slaughterers (subpart K) or small poultry further processors (subpart L) as all of these small facilities are currently implementing the proposed limitations and standards (Docket No. W–01–06, Record No. 00168).

EPA is proposing no PSES and PSNS for all indirect dischargers in all MPP subcategories. EPA did, however, estimate the sludge generation at non-small MPP facilities that are indirect dischargers and noted a small net increase in sludge generation.

TABLE X.C–1.—INCREMENTAL SLUDGE GENERATION FOR EXISTING NON-SMALL MPP FACILITIES, DIRECT DISCHARGERS

40 CFR part 432 subcategory groupings[1]	Baseline total sludge generated at non-small MPP facilities, direct dischargers (tons/year)	Incremental Sludge Generated—tons/yr and percent increase [% Increase] for non-small MPP facilities, direct dischargers			
		BAT2	BAT3	BAT4	BAT5
A, B, C, D	353,794	0 [0.0%]	−5,976 [−1.7%]	−5,334 [−1.5%]	NA
F, G, H, I	6,564	0 [0.0%]	−45 [−0.7%]	−26 [−0.4%]	NA
J	3,655	0 [0.0%]	−124 [−3.4%]	−124 [−3.4%]	NA
K	129,917	0 [0.0%]	−10,353 [−8.0%]	8,533 [6.6%]	8,533 [6.6%]
L	3,326	0 [0.0%]	−146 −4.4%]	−137 [−4.1%]	−909 [−27.3%]

Note 1: Small Processors (Subpart E) are not covered under the proposal (*see* Section III.A.1) and do not have any net incremental NWQIs (including sludge generation).

TABLE X.C–2.—INCREMENTAL SLUDGE GENERATION FOR EXISTING NON-SMALL MPP FACILITIES, INDIRECT DISCHARGERS

40 CFR part 432 subcategory groupings[1]	Baseline total sludge generated at non-small MPP facilities, indirect dischargers (tons/year)	Incremental sludge generated—tons/yr and percent increase [% Increase] for non-small MPP facilities, indirect dischargers			
		PSES1	PSES2	PSES3	PSES4
A, B, C, D	63,466	0 [0.0%]	227,567 [358.6%]	187,011 [294.7%]	189,695 [298.9%]

TABLE X.C–2.—INCREMENTAL SLUDGE GENERATION FOR EXISTING NON-SMALL MPP FACILITIES, INDIRECT DISCHARGERS—Continued

40 CFR part 432 subcategory groupings[1]	Baseline total sludge generated at non-small MPP facilities, indirect dischargers (tons/year)	Incremental sludge generated—tons/yr and percent increase [% Increase] for non-small MPP facilities, indirect dischargers			
		PSES1	PSES2	PSES3	PSES4
F, G, H, I	2,599	302 [11.6%]	58,071 [2234.6%]	48,598 [1870.1%]	50,046 [1925.8%]
J	9,520	32 [0.3%]	11,259 [118.3%]	9,212 [96.8%]	9,522 [100.0%]
K	38,422	97 [0.3%]	188,012 [489.3%]	162,621 [423.3%]	162,589 [423.2%]
L	2,360	228 [9.6%]	61,213 [2593.6%]	53,794 [2279.2%]	54,233 [2297.8%]

Note 1: Small Processors (Subpart E) are not covered under the proposal (*see* Section III.A.1) and do not have any net incremental NWQIs (including sludge generation).

As shown in Table X.C–1, Direct Option BAT3 results in a net decrease in sludge generation for non-small direct dischargers. This is a result of the nitrification/denitrification (BAT3) metabolism which reduces sludge production as compared with nitrification (BAT2) metabolism for the same solids retention time (Docket No. W–01–06, Record No.00166). Full-scale domestic WWTP have shown a 5 to 15% reduction in waste sludge production after the inclusion of the nitrification/denitrification process (Docket No. W–01–06, Record No. 10035).

EPA also expects that water conservation and pollution prevention technologies may result in a greater sludge reduction. EPA expects these technologies to reduce sludge generation for the following reasons:

- Water conservation technologies reduce the amount of source water used and thus mass of pollutants in the source water which reduces the amount of sludge generated during treatment.
- Pollution prevention practices reduce the mass of pollutants in treatment system influent streams which reduces the amount of WWTP sludge.

EPA used facility count, wastewater flow, and treatment-in-place data from the MPP Screener Survey and Detailed Survey to develop the previous sludge generation estimations. The MPP Development Document provides more detailed information on the development of these sludge generation estimations.

XI. Options Selected for Proposal

A. Introduction

1. Methodology for Proposed Selection of Regulated Pollutants

EPA selects the pollutants for regulation based on the pollutants of concern (POCs) identified for each subcategory.

EPA selected a subset of pollutants for which to establish numerical effluent limitations from the list of POCs for each regulated subcategory. Section VII.C. discusses EPA's methodology for selecting POCs and identifies on a subcategory basis the POCs relevant to this proposal. Generally, a chemical is considered a POC if it was detected in the untreated process wastewater at 5 times the minimum level (ML) in more than 10 percent of samples.

Monitoring for all POCs is not necessary to ensure that Meat and Poultry Products wastewater pollution is adequately controlled, since many of the pollutants originate from similar sources, have similar treatabilities, are removed by similar mechanisms, and are treated to similar levels. Therefore, it may be sufficient to monitor for one pollutant as a surrogate or indicator of several others.

Regulated pollutants are pollutants for which the EPA would establish numerical effluent limitations and standards. EPA selected a POC for regulation in a subcategory if it meets all the following criteria:

—Chemical is not used as a treatment chemical in the selected technology option.
—Chemical is not considered a volatile compound.
—Chemical is effectively treated by the selected treatment technology option.
—Chemical is detected in the untreated wastewater at treatable levels in a significant number of samples, *e.g.,* generally 5 times the minimum level at more than 10 percent of the raw wastewater samples.
—Chemicals whose control through treatment processes would lead to control of a wide range of pollutants with similar properties; these chemicals are generally good indicators of overall wastewater treatment performance.

Based on the methodology described above, EPA proposes to regulate pollutants in each subcategory that will ensure adequate control of a range of pollutants.

2. Selection of Proposed Regulated Pollutants for Existing and New Direct Dischargers

The current regulation requires facilities to maintain the pH between 6.0 and 9.0 at all times. EPA intends to retain this limitation and proposes to codify identical pH limitations for previously unregulated subcategories. The pH shall be monitored at the point of discharge from the wastewater treatment facility to which effluent limitations derived from this part apply.

In addition, EPA is proposing to establish effluent limitations for MPP facilities for the following pollutants of concern: BOD, COD, TSS, oil and grease, fecal coliforms, ammonia, total nitrogen, and total phosphorus. The specific justifications for the pollutants to be regulated for each subcategory are provided below. In general, EPA selected these pollutants because they are representative of the characteristics of meat processing wastewaters generated in the industry, and are key indicators of the performance of treatment processes that serve as the basis for the proposed effluent limitations.

A number of POCs evaluated by EPA are parameters that identify the quantity of material in an effluent that is likely to consume oxygen as it breaks down in surface waters after it has been discharged. These parameters include total organic carbon, BOD, COD and dissolved BOD. Values for these POCs

in meat poultry processing wastes are typically very high due to the wastewaters generated from killing, evisceration, further processing, and rendering processes. EPA is proposing to regulate BOD and COD, which will be used as indicators of the performance of biological treatment systems to remove all oxygen-demanding pollutants.

Total suspended solids (TSS), total dissolved solids (TDS), and total volatile solids are parameters that measure the quantity of solids in a wastewater. Meat processing facilities typically produce wastewaters high in organic solids including blood, carcass, feathers, and feces. These solids cause a high oxygen demand (both chemical and biochemical) and are high in protein and nitrogen content. Because some nutrients bind to solids, and solids often include oxygen-demanding organic material, limiting the loading of solids will prevent degradation of surface waters. EPA proposes to regulate TSS as an indicator of performance of biological treatment systems to remove solids. EPA considered regulation of TDS, however, as organic matter is broken down in a biological system, levels of TDS may increase, which makes regulation of TDS not feasible. EPA is considering setting TDS direct and/or indirect limitations and standards for certain meat and poultry further processors (*e.g.,* ham processors) that use significant amounts of brine or pickling solutions for the final rule. EPA solicits comment on whether such TDS limitations and standards are necessary, what technologies would be appropriate for this industry for TDS removal, and which industry subcategories (if any) should be subject to these potential limitations and standards.

Wastewaters from meat processing facilities have high concentrations of nutrients associated primarily with solids from feces wastes and facility cleaning processes. In addition, those facilities employing advanced biological treatment systems to remove ammonia convert organic nitrogen to nitrate and nitrites. Due to the potential degrading impacts to surface waters associated with the discharge of nutrients (*e.g.,* eutrophication), EPA proposes to regulate total nitrogen and total phosphorus. In regulating total nitrogen and total phosphorus, EPA will ensure that biological treatment systems used by facilities are effectively removing all forms of these nutrients including total kjeldahl nitrogen (TKN), nitrate/nitrite, ammonia as nitrogen, orthophosphate, and dissolved phosphorus. EPA proposes to regulate total nitrogen to ensure that the relationship between organic nitrogen (estimated by the pollutant TKN) and inorganic nitrogen (estimated by nitrate/nitrite) is maintained, thus EPA is defining ''total nitrogen'' to be the sum of nitrate/nitrite and TKN. EPA is also proposing to specifically regulate ammonia as nitrogen because of the significant oxygen demand it exerts, as well as its relatively high toxicity to aquatic life. In conjunction with the proposed regulations for total nitrogen, EPA proposes to approve EPA Method 300.0 at 40 CFR part 432. Alternatively, EPA may amend 40 CFR part 136 to include Method 300.0 for determination of nitrate/nitrite from wastewaters in the meat and poultry products point source category. The analytical methods for nitrite/nitrate that are currently approved at 40 CFR part 136 include many that are based on colorimetric techniques (*i.e.,* adding reagents to a sample that form a colored product when they react with the nitrate/nitrite and measuring the intensity of the colored product). Such methods can be subject to interferences in the difficult matrices associated with this industry where samples may contain blood, animal tissue, and/or other particulates which affect both the color development and ability to pass light through the sample to measure the intensity of the colored product. In contrast, Method 300.0 employs the technique known as ion chromatography to measure 10 inorganic anions, including nitrate and nitrite. Ion chromatography permits the various inorganic anions to be separated from one another, as well as from other materials and contaminants present in the sample. Each anion can be identified on the basis of its characteristic retention time (the time required to pass through the instrumentation). After separation, the anions are measured by a conductivity detector that responds to changes in the effluent from the ion chromatograph that occur when the negatively charged anions (analytes) elute at characteristic retention times, thereby changing the conductivity of the solution. Thus, Method 300.0 offers better specificity for nitrate and nitrite in the presence of interferences compared to the approved colorimetric methods. Method 300.0 is located in the rulemaking record (Docket No. W–01–06, Record No. 10036). EPA requests comment on the use of this method for the meat and poultry point source category and whether the method should be approved at 40 CFR part 432 or at 40 CFR part 136 or both.

Oil and grease (as n-hexane-extractable material) is a parameter that measures oil and grease concentrations in effluents. Oil and grease is contained in many of the meat processing operations. EPA is proposing the control of oil and grease is necessary to ensure that treatment systems are effective in removing oil and grease. Excessive oil and grease concentrations can be associated with high BOD demand in a surface water and present other nuisance problems. In the proposed rule, these limitations and standards are listed as ''O&G (HEM)'' to indicate that the parameter should be measured as hexane extractable material (HEM). In contrast, EPA has retained the previous notation of ''O&G'' for the existing BPT limitations, but has included footnotes that indicate it can be measured as HEM. EPA has used the two different notations because the existing BPT limitations and today's proposed limitations were based upon analytical testing methods that used two different extraction solvents: freon and n-hexane, respectively. EPA has determined that the two methods are comparable (*see* ''Approval of EPA Methods 1664, Revision A, and 9071B for Determination of Oil and Grease and Non-polar Material in EPA's Wastewater and Hazardous Waste Programs'' (EPA–821–F–98–005, February 23, 1999, located at *www.epa.gov/ost/methods/1664fs.html*) and *Analytical Method Guidance for EPA Method 1664A Implementation and Use* (EPA–821–R–00–003, February 2000, located at *www.epa.gov/ost/methods/1664guide.pdf)).* Because freon is an ozone-depleting agent and becoming more expensive, EPA believes that facilities will prefer to measure oil and grease as HEM for the existing BPT limitations. EPA solicits comments on its notation for the two types of oil and grease limitations and standards in the proposed rule.

Chlorides measure the quantity of chloride ion dissolved in solution. In the meat processing industry, salts may be used for cleaning and antimicrobial purposes. The presence of chloride in discharges to surface waters may impact aquatic organisms because of their sensitivity to concentrations of salt. Although EPA determined that chlorides are a pollutant of concern, EPA is not proposing to regulate chlorides because biological systems are not specifically designed and operated to treat chlorides. In fact, EPA observed in some instances an increase in chlorides within the biological treatment system (*i.e.,* from the influent to the effluent) at several facilities. As a result, EPA believes that a facility will not be able to manage a biological treatment process to consistently

achieve effluent limitations for chlorides.

Total coliform, fecal coliform, E. coli, fecal streptococci, Salmonella, and Aeromonas were considered POCs because they provide information on concentrations of potential bacterial and other pathogens in meat processing wastewaters. Meat processing wastewaters are typically high in pathogens as they are associated with the organic solids such as feces, blood, and internal organ wastes that are produced in many of the processes. The control of pathogens is important to ensure efficient treatment to prevent impairment of surface water uses such as a drinking water source or as a recreation water. EPA is proposing to regulate fecal coliform as an indicator of the efficacy of treatment processes to control pathogens. Because analytical methods require that fecal coliforms be measured within eight hours of sample collection, EPA is currently conducting a study to determine if longer holding times affect the number of viable bacteria remaining in the sample during the eight hour holding time period. A number of organisms are being tested for, including fecal and total coliforms, *Escherichia coli,* Aeromonas species, fecal streptococci, Salmonella species and *Enterococcus faecium.* In addition, in developing the proposed limitations and standards, EPA measured fecal coliform counts in samples that had been retained longer than eight hours. The EPA study is testing for viable organisms between 8 and 48 hours holding time. Thus, EPA will conduct this holding time study for two purposes: to evaluate the use of data in developing the limitations and standards; and for possible revisions to currently approved methods. In the forthcoming NODA, EPA will provide the data collected during the study and its evaluation of the results.

In many instances, EPA found meat processing facilities utilizing chlorine to disinfect treated wastewaters. As a disinfectant, chlorine is highly toxic to aquatic life. In light of the fact that EPA is proposing to regulate fecal coliform, EPA is also considering regulating total residual chlorine as means to control the amount of chlorine that is discharged to surface waters for the final rule. However, EPA is not proposing to regulate total residual chlorine at this time. EPA solicits comment on this issue (*see* discussion on disinfection techniques in Section XI.A.3).

Metals may be present in meat processing wastewaters due to a variety of reasons. They are used as feed additives, they may be contained in sanitation products, or they may result from deterioration of meat processing machinery and equipment. Many metals are toxic to algae, aquatic invertebrates, and/or fish. Although metals may serve useful purposes in meat processing operations, most metals retain their toxicity once they are discharged into receiving waters. Although EPA observed that many of the biological treatment systems used within the meat processing industry provide substantial reductions of most metals, biological systems are not specifically designed and operated to remove metals. As a result, EPA believes that a facility will not be able to manage a biological treatment process to consistently achieve effluent limitations. Therefore, EPA is not proposing to regulate metals.

Pesticides are used for controlling animal parasites and may be present in wastewaters from initial animal wash and processing operations. Some pesticides are bioaccumulative and retain their toxicity once they are discharged into receiving waters. Similar to metals, although EPA observed that many of the biological treatment systems used within the meat processing industry provide adequate reductions of pesticides, most biological systems are not specifically designed and operated to remove pesticides. As a result, EPA believes that a facility will not be able to manage a biological treatment process to consistently achieve effluent limitations for pesticides. Therefore, EPA is not proposing to regulate pesticides.

3. Approach to Determining Long Term Averages, Variability Factors, and Effluent Limitations Guidelines and Standards

This subsection describes the statistical methodology used to develop long-term averages, variability factors, and limitations for BPT, BCT, BAT, and NSPS. The same basic procedures apply to the calculation of all effluent limitations guidelines and standards for this industry, regardless of whether the technology is BPT, BCT, BAT, or NSPS. For simplicity, the following discussion refers only to effluent limitations guidelines; however, the discussion also applies to new source standards.

The proposed limitations for pollutants for each option, as presented in today's notice, are provided as maximum daily discharge limitations and maximum monthly average discharge limitations. Definitions provided in 40 CFR 122.2 state that the ''maximum daily discharge limitation'' is the ''highest allowable 'daily discharge' '' and the ''maximum average for monthly discharge limitation'' is the ''highest allowable average of 'daily discharges' over a calendar month, calculated as the sum of all 'daily discharges' measured during a calendar month divided by the number of 'daily discharges' measured during that month.'' Daily discharge is defined as the 'discharge of a pollutant' measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.''

EPA calculates the limitations based upon percentiles chosen with the intention, on one hand, to accommodate reasonably anticipated variability within the control of the facility and, on the other hand, to reflect a level of performance consistent with the Clean Water Act requirement that these effluent limitations be based on the ''best'' technologies properly operated and maintained. The daily maximum limitation is an estimate of the 99th percentile of the distribution of the daily measurements. The maximum monthly average limitation is an estimate of the 95th percentile of the distribution of the monthly averages of the daily measurements. The percentiles for both types of limitations are estimated using the products of long-term averages and variability factors.

In the first of two steps in estimating both types of limitations, EPA determines an average performance level (the ''long-term average'') that a facility with well-designed and operated model technologies (which reflect the appropriate level of control) is capable of achieving. This long-term average is calculated from the data from the facilities using the model technologies for the option. EPA expects that all facilities subject to the limitations will design and operate their treatment systems to achieve the long-term average performance level on a consistent basis because facilities with well-designed and operated model technologies have demonstrated that this can be done. In the second step of developing a limitation, EPA determines an allowance for the variation in pollutant concentrations when processed through well designed and operated treatment systems. This allowance for variance incorporates all components of variability including process and wastewater generation, sample collection, shipping, storage, and analytical variability. This allowance is incorporated into the limitations through the use of the variability factors, which are calculated from the data from the facilities using the model technologies. If a facility operates its treatment system to meet the relevant long-term average, EPA expects the facility to be able to meet the limitations. Variability factors assure

that normal fluctuations in a facility's treatment are accounted for in the limitations. By accounting for these reasonable excursions above the long-term average, EPA's use of variability factors results in limitations that are generally well above the actual long-term averages.

EPA recognizes that, as a result of modifications to 40 CFR part 432, some dischargers may need to improve treatment systems, process controls, and/or treatment system operations in order to consistently meet effluent limitations based on revised effluent limitations guidelines and standards. EPA believes that this consequence is consistent with the Clean Water Act statutory framework, which requires that discharge limitations reflect the best available technology.

While the actual monitoring requirements will be determined by the permitting authority, the Agency has assumed thirty samples per month (i.e., daily monitoring) in determining the proposed maximum monthly average limitations. EPA recognizes that small poultry facilities are unlikely to operate on weekends and is soliciting comment on whether their monthly limitations should be based upon 20 days. Increasing or decreasing monitoring frequency does not affect the statistical properties of the underlying distribution of the data used to derive the limitations. However, monitoring less frequently theoretically results in average values that are more variable. As a consequence, average values based on 20 monitoring samples per month from small poultry facilities theoretically could be numerically larger than average values based upon 30 monitoring samples from non-small facilities. Thus, operators of small poultry facilities may find they need to design treatment systems to achieve an average below the long term average basis of the proposed limitations and/or more control over variability of the discharges in order to maintain compliance with the limitations. The MPP Development Document provides a list of both the proposed limitations and those derived using a 20-day monitoring assumption.

The long-term averages, variability factors, and limitations were based upon pollutant concentrations collected from two data sources: EPA sampling episodes and data submitted by industry. When the data from the EPA sampling episodes at a facility met the data editing criteria, EPA used the sampling data and any monitoring data provided by the facility. In the absence of transferable data, data received in the detailed surveys was used to develop LTAs. In particular for regulatory option2 for poultry:

- The further processing portion for TSS is estimated at 9.76 mg/L, which is the largest value in survey data for poultry facilities with further processing operations that has Option2 treatment in place, and
- The rendering portion for Oil and Grease(HEM) is estimated at 19.5 mg/L, which is the largest value in survey data for poultry facilities with rendering operations that has Option2 treatment in place.
- For one conventional pollutant, fecal coliform, the EPA sampling data show that chlorine disinfection followed by dechlorination is extremely effective treatment, and very low long-term averages were calculated for fecal coliform based on chlorine disinfection. However, EPA has decided not to use the long-term averages as calculated based on the fact that ultraviolet disinfection (or other types of disinfection) may overall be better for the environment than chlorine disinfection because they don't produce a residual effect that can be harmful to humans or aquatic life. Since ultraviolet disinfection (or other types of disinfection) are not always as effective as chlorine disinfection, EPA has decided to propose fecal coliform limitations equal to the existing ones, which are currently being met by MPP facilities with varying types of disinfection. EPA intends to further assess ultraviolet and other disinfection technologies following proposal and may set revised limitations for the final rule. EPA solicits data on disinfection technologies and comments on this decision. See MPP Development Document Section 11 for more information.

4. BPT

In general, the BPT technology level represents the average of the best existing performances of plants of various processes, ages, sizes or other common characteristics. Where existing performance is considered uniformly inadequate, BPT may be transferred from a different subcategory or industry. Limitations based upon transfer of technology must be supported by a conclusion that the technology is indeed transferable and a reasonable prediction that it will be capable of meeting the prescribed effluent limits. See *Tanners' Council of America* v. *Train,* 540 F.2nd 1188 (4th Cir. 1976). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where the process changes or internal controls are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which does not require the Agency to quantify the benefits in monetary terms. In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges expected after the application of BPT, the general environmental effects of the pollutants, and the cost and economic impact of the required pollution controls. When setting BPT limitations, EPA is required under Section 304(b) to perform a limited cost-benefit balancing to ensure the costs are not wholly out of proportion to the benefits achieved. See *Weyerhaeuser Company* v. *Costle,* 590 F.2d 1011 (D.C. Cir. 1978).

a. New Subcategories/Segments. EPA proposes BPT limitations for conventional pollutants (BOD, TSS, fecal coliform, pH, and oil and grease) and non-conventional pollutants (ammonia as nitrogen, total nitrogen and total phosphorus) for the following subcategories or segments that have not previously been regulated under part 432: Poultry First Processing and Poultry Further Processing. There are no BPT limitations in the current regulation applicable to these types of facilities.

b. Existing Subcategories/Segments. EPA is retaining the existing BPT limitations (BOD, TSS, fecal coliform, pH and oil and grease) for all facilities currently covered under 40 CFR part 432. In addition, EPA proposes new BPT limitations for larger MPP facilities. Specifically,

- For facilities in Subcategories A, B, C and D that slaughter more than 50 million pounds (LWK) per year, EPA proposes to add BPT limitations for one non-conventional pollutant (COD) to reflect the better design and operation of the existing BPT treatment technology. The Agency is proposing the same COD BPT limitation for each of these subcategories (Subcategories A, B, C and D).
- For facilities in Subcategories F, G, H and I that produce more than 50 million pounds of finished product per year, EPA proposes to add BPT limitations for one non-conventional pollutant (COD) to reflect the better design and operation of the existing BPT treatment technology. The Agency is proposing the same COD BPT limitation for each of these subcategories (Subcategories F, G, H and I).
- For facilities in Subcategory J that render more than 10 million pounds per year of raw material, EPA proposes to add a BPT limitation for one non-

conventional pollutant (COD) to reflect the better design and operation of the existing BPT treatment technology.

EPA is proposing the addition of COD to reflect the average of the best existing performances based on new information collected for this proposal (*see* Section V). Further, EPA has determined to revise BPT for COD because the biological treatment technology used as a basis for the limitations really represents BPT technology and is widely used in the industry. EPA considers the control of COD as the most appropriate parameter to represent the BPT level of control for non-conventional and conventional pollutants. The bulk parameter and nonconventional pollutant COD is an indicator of organic matter in the wastestream that is susceptible to strong oxidation, and as such would also measure organic material susceptible to biochemical oxidation, as well as some that is more difficult to oxidize biochemically. While it is EPA's view that it can revise BPT limitations for conventional pollutants without passing the BCT cost test (where the BPT effluent reduction ratio is favorable), the Agency is not generally inclined to do so unless the removals achieved by the existing BPT limitations are significantly fewer than would be achieved through revision of BPT. That was not the case here. Revising BPT to incorporate COD will not only remove large amounts of COD, but also achieve significant incidental removals of BOD_5 and TSS. For this reason, EPA has determined that it is not necessary to separately revise the BPT limits for BOD_5 and TSS in this case.

EPA is retaining the existing BPT limitations and proposing no new BPT limitations for ''small'' facilities. EPA used production based thresholds to subcategorized these small facilities (*see* Section III). EPA defines small MPP facilities as MPP facilities that produce less then the production based thresholds defined above (and in Section III). See also Section III.A.1 for a description of why and how EPA developed these production based thresholds.

5. BCT

The BCT methodology, promulgated in 1986 (51 FR 24974), discusses the Agency's consideration of costs in establishing BCT effluent limitations guidelines. EPA evaluates the reasonableness of BCT candidate technologies (those that are technologically feasible) by applying a two-part cost test:

(1) The POTW test; and

(2) The industry cost-effectiveness test.

In the POTW test, EPA calculates the cost per pound of conventional pollutant removed by industrial discharges in upgrading from BPT to a BCT candidate technology and then compares this cost to the cost per pound of conventional pollutant removed in upgrading POTWs from secondary treatment. The upgrade cost to industry must be less than the POTW benchmark of $0.25 per pound (in 1976 dollars).

In the industry cost-effectiveness test, the ratio of the incremental BPT to BCT cost divided by the BPT cost for the industry must be less than 1.29 (i.e., the cost increase must be less than 29 percent). See Section VIII.F for details on the calculation of the BCT cost tests.

In developing BCT limits, EPA considered whether there are technologies that achieve greater removals of conventional pollutants than proposed for BPT, and whether those technologies are cost-reasonable according to the prescribed BCT tests. For subcategories A–D, E–I, K and L, EPA identified no technologies that can achieve greater removals of conventional pollutants than the BPT standards that also pass the BCT. Accordingly, EPA proposes to establish BCT effluent limitations equal to the current BPT limitations for these subcategories. In the Rendering subcategory (subcategory J), EPA found that Option 2 would achieve greater removal of conventional pollutants and was cost-reasonable under the BCT cost tests and therefore proposes this technology as BCT.

6. Consideration of Statutory Factors for BAT and NSPS Technology Options Selection

Based on the record before it, EPA has determined that each proposed model technology is technically available. EPA is also proposing that each is economically achievable for the segment to which it applies. Further, EPA has determined, for the reasons set forth in Section X, that none of the proposed technology options has unacceptable adverse non-water quality environmental impacts. EPA also considered the age, size, processes, and other engineering factors pertinent to facilities in the proposed segments for the purpose of evaluating the technology options. EPA is proposing to establish separate limits for facilities on the basis of size. As discussed in more detail in Section III.A.1 above, EPA is not proposing to establish more stringent limitations to small meat slaughterers nor is the Agency proposing to revise the limitations for the small meat processors subcategory (Subpart E). EPA survey data indicate that there are approximately 107 small meat processing facilities that would have been subject to any new limitations. EPA estimates that the additional pollutant reductions achieved by establishing more stringent limitations for these small facilities would be minimal. For example, under regulatory option BAT 3, pollutant load reductions attributable to small facilities is less than 0.1 percent of the total expected pollutants load reductions.

In selecting its proposed NSPS technology for these segments and subcategories, EPA considered all of the factors specified in CWA Section 306, including the costs of achieving effluent reductions and the effect of costs on new projects (barrier-to-entry). The Agency also considered energy requirements and other non-water quality environmental impacts for the proposed NSPS options and concluded that these impacts were no greater than for the proposed BAT technology options and are acceptable. EPA therefore concluded that the NSPS technology basis proposed constitutes the best available demonstrated control technology for those segments.

B. Pretreatment Standards

National pretreatment standards are established for those pollutants in wastewater from indirect dischargers that may pass through, interfere with or are otherwise incompatible with POTW operations. Generally, pretreatment standards are designed to ensure that wastewaters from direct and indirect industrial dischargers are subject to similar levels of treatment. In addition, many POTWs are required to develop and implement local treatment limits applicable to their industrial indirect dischargers to satisfy any local requirements (*see* 40 CFR 403.5). POTWs that are not required to implement approved programs, and have not had interference or pass through issues are not required to develop and implement local limits. There are approximately 1,500 POTWs with approved Pretreatment Programs and 13,500 small POTWs that are not required to develop and implement approved Pretreatment Programs.

National pretreatment standards have three principal objectives: (1) Prevent the wide-scale introduction of pollutants into publicly owned treatment works (POTWs) that will interfere with POTW operations, including use or disposal of municipal sludge; (2) prevent the introduction of pollutants into POTWs which will pass through the treatment works or will

otherwise be incompatible with the treatment works; and (3) improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

Currently there are no categorical pretreatment standards for the MPP point source category. EPA is not proposing new pretreatment standards for existing or new MPP indirect dischargers. While EPA has some information regarding effluents from MPP indirect dischargers that may pass through, interfere with, or otherwise be incompatible with POTW operations, it is not clear that it justifies categorical pretreatment standards for this industry. The following sections discuss the information EPA was able to collect and what information EPA is soliciting in this proposal and planning to collect after proposal.

1. POTW Interference

As noted above, there are no categorical pretreatment standards for MPP indirect dischargers, however, the national pretreatment standards prohibit the discharge of, ''Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW ,'' (*see* 40 CFR 403.5(b)(4)). All indirect dischargers are prohibited from introducing into a POTW any pollutant(s) which cause pass through or interference whether or not categorical pretreatment standards or any national, State, or local pretreatment requirements apply (*see* 40 CFR 403.5(a)(1)). POTWs are required to develop and enforce Pretreatment Programs and/or set local limits to ensure renewed and continued compliance with the POTW's NPDES permit or sludge use or disposal practices (*see* 40 CFR 403.5(c)). According to data provided in the detailed surveys, approximately one-third of the MPP facilities discharge to POTWs which discharge less than 5 MGD. These POTWs are often not required through their NPDES permits to implement Pretreatment Programs.

EPA typically does not establish pretreatment standards for conventional pollutants (e.g., BOD_5, TSS, Oil and Grease) since POTWs are designed to treat these pollutants, but EPA has exercised its authority to establish categorical pretreatment standards for conventional pollutants. For example, EPA established categorical pretreatment standards for new and existing sources with a one day maximum concentration of 100 mg/L oil and grease in the Petroleum Refining Point Source Category (40 CFR 419). This standard is based on the performance of either of two technologies (primary oil removal or DAF). EPA identified this pretreatment standard as necessary to ''minimize the possibility of slug loadings of oil and grease being discharged to POTW,'' (Docket No. W–01–06, Record No. 00167). EPA notes that oil and grease from Petroleum Refineries is not the same material as oil and grease from MPP facilities. EPA solicits comment on the use of the 100 mg/L standard for preventing POTW interference by vegetable/animal oil and grease discharges.

EPA previously identified that high organic loadings and grease remaining in the MPP facility effluent may cause difficulty in the POTW treatment system and that the performance of trickling filters appear to be particularly sensitive (Docket No. W–01–06, Record No.00162; Record No.00140). High loadings of oil and grease can also clog pipes and promote the growth of filamentous bacteria which can inhibit the performance of the POTW (especially trickling filters which are more often used at smaller POTWs) (Docket No. W–01–06, Record No. 00085). A concentration of 100 mg/L for Oil and Grease is often cited as a local limit and compliance with this limit may require an effective dissolved air floatation device in addition to a catch basin and other primary treatment system (Docket No. W–01–06, Record No.00162; Record No.00140). EPA recognizes that much of this data was developed in the 1970s but believes that it is still relevant today.

EPA also previously identified that oil and grease of petroleum origin has been reported to interfere with the aerobic processes of POTWs (Docket No. W–01–06, Record No. 00167). It is believed that the principal interference is caused by the attachment of oil and grease of petroleum origin onto floc particles, resulting in a slower settling rate, loss of solids by carryover out of the settling basin, and excessive release of BOD from the POTW to the environment. Additionally, EPA identified that oil and grease of petroleum origin may coat the biomass in activated sludge treatment units, thereby interfering with oxygen transfer and reducing treatment efficiency.

EPA Regional and State permit writers and pretreatment coordinators identified approximately twenty cases where MPP indirect dischargers interfered with POTW operations (Docket No. W–01–06, Record No. 10037). While some specific details are lacking, these cases generally describe how overloadings of various parameters (e.g., BOD_5, Oil and Grease, TSS, Ammonia) and unequalized flows from MPP indirect dischargers have resulted in POTW interference incidents and POTW NPDES permit violations.

It is not clear, however, whether these identified interference incidents represent an industry-wide problem or if they are site specific and more appropriately addressed by the general pretreatment prohibitions and local limits, or by POTW upgrades. Some of these instances do involve violations of local limits or were resolved by POTW upgrades, and therefore the general pretreatment prohibitions and local limits did work. However, EPA does not know how frequently this was the case. More detailed information will be gathered to determine whether these facilities were in violation of the local limits, POTWs have upgraded since the incident, or these were one-time problems. EPA solicits more detailed information on these identified interference incidents and other POTW interference and pass through incidents. EPA will collect more information from EPA and State pretreatment program coordinators, POTWs, and MPP indirect dischargers after proposal to: (1) Understand whether the general pretreatment prohibition is sufficient to address POTW interference and pass through incidents for this industry; and (2) determine if reoccurrences of these POTW interference and pass through incidents necessitate categorical pretreatment standards at the time of the final rule for non-small facilities.

Many POTWs are capable of controlling MPP indirect discharges through local limits or sufficient dilution with domestic wastewaters. Most of the approximately 1,500 POTWs with approved Pretreatment Programs have numeric oil and grease limits and many POTWs without approved Pretreatment Programs also have oil and grease limits. For example, EPA identified approximately two dozen Pretreatment Programs with local limits on oil and grease (Docket No. W–01–06, Record No. 10037). Oil and grease limits were most often in the range of 50 mg/L to 450 mg/L with 100 mg/L as the most common reported limit. Other Pretreatment Programs use descriptive requirements to limit interference from high oil and grease concentrations.

While most POTWs are not significantly affected by MPP indirect discharges, EPA notes that some, primarily smaller POTWs, including those not required to implement approved Pretreatment Programs, may have difficulty in properly treating MPP indirect discharges or in setting local

limits. Some POTWs may be particularly susceptible to high and variable organic and oil and grease loadings. If MPP indirect dischargers are unable to reduce or equalize their high organic and oil and grease concentrations, some small POTWs receiving these discharges may be unable to dampen the peak loadings or equalize high organic and oil and grease concentrations from MPP indirect dischargers with domestic wastewater. MPP indirect discharges range from 3 to 20 times in organic concentrations than typical domestic wastewater (Docket No. W–01–06, Record No. 10038). Small POTW facilities are generally more susceptible to high and variable loadings from large MPP indirect dischargers. Small POTWs often use less sophisticated wastewater treatment systems (*e.g.,* trickling filters, simple anaerobic lagoons) which may not be able to operate properly during periods of high flow or handle slug loads discharged by MPP facilities after a shut-down period (*e.g.,* no or low MPP indirect loadings during weekend operations when there are no or limited MPP operations taking place). Trickling filters at small POTW facilities may be unable to effectively process high organic and oil and grease concentrations and may allow unacceptable amounts of BOD and oil and grease concentrations to pass through if MPP indirect dischargers are not properly controlled. Anaerobic lagoons at small POTW facilities may be unable to convert ammonia to nitrate (a less toxic form of nitrogen) and are therefore unsuitable as a treatment step to ensure that the receiving water doesn't receive toxic amounts of ammonia. In one such instance, a MPP facility was directed to establish biological pretreatment (by installing a biological sequencing batch reactor) in order to discharge to the local POTW which has a simple anaerobic lagoon system (Docket No. W–01–06, Record No. 10039).

Industry and the Association of Metropolitan Sewerage Agencies (AMSA) stated to EPA that cases of POTW interference from MPP indirect dischargers are relatively infrequent occurrences and that they are best handled through local limits and proper enforcement (Docket No. W–01–06, Record No. 10040). AMSA is a membership organization that represents approximately 10% of the largest POTWs in the United States (about 150 of the 1,500 POTWs with Pretreatment Programs) and some small POTWs. However, none of the approximately 20 cases of interference incidents identified in the record involve AMSA members. EPA solicits information on other potential positive and negative impacts on POTW operations if EPA were to set national categorical pretreatment standards for the prevention of interference of POTW operations. AMSA has stated that any attempt to reduce organic loadings from MPP facilities would also reduce the amount of revenue collected by their POTW and have a detrimental effect on its operations. (Docket No. W–01–06, Record No. 10040). EPA also solicits information on whether MPP indirect dischargers are causing interference issues on a national, on-going basis and whether POTWs are addressing these interference issues in a timely manner once they are identified. Finally, EPA also solicits information on whether increased attention from Federal and State Pretreatment Programs and/or Total Maximum Daily Load (TMDL) programs would sufficiently deal with MPP indirect discharges that may cause POTW interference in lieu of national categorical pretreatment standards.

2. POTW Pass Through

As noted above, Federal categorical pretreatment standards are also designed to prevent the introduction of pollutants into POTWs which will pass through the treatment works or will otherwise be incompatible with the treatment works. Generally, to determine if pollutants pass through POTWs, EPA compares the percentage of the pollutant removed by well-operated POTWs achieving secondary treatment with the percentage of the pollutant removed by each of the indirect technology options. EPA identified the following MPP pollutants, based on EPA sampling efforts, that EPA would normally determine to pass through using EPA's standard methodology (i.e., indirect technology option has a percent removal higher than the POTW percent removal).

TABLE XI.B–1.—MEAT POLLUTANTS OF CONCERN REMOVAL EFFICIENCIES

MPP pollutant of concern	CAS number	PSES indirect option 1 treatment efficiency	POTW treatment efficiency [1]
Oil and Grease	C036	95	86
Copper	7440508	91	84
Molybdenum	7439987	82	19
Zinc	7440666	91	79

Note 1: These POTW removal efficiencies are from the 50-POTW study (Docket No. W–01–06, Record No. 00180).

TABLE XI.B–2.—POULTRY POLLUTANTS OF CONCERN REMOVAL EFFICIENCIES

MPP pollutant of concern	CAS number	PSES indirect option treatment efficiency	POTW treatment efficiency [1]
Oil and Grease	C036	90	87
Total Kjeldahl Nitrogen (TKN)	C021	73	57
Total Phosphorus	14265442	67	57
Barium	7440393	78	16
Manganese	7439965	60	36
Nickel	7440020	65	51
Zinc	7440666	53	79

Note 1: These POTW removal efficiencies are from the 50–POTW study (Docket No. W–01–06, Record No. 00180).

PSES Indirect Option 1 (PSES1) is a physical-chemical treatment system [dissolved air floatation (DAF) with chemical flocculant addition, equalization tank] that primarily targets conventional pollutants including oil and grease. As the tables above indicate, PSES1 shows some metal and nutrient removals but it is not clear why a technology designed to control conventional pollutants also affects the level of other pollutants. EPA notes that many of these pollutants of concern that would normally be determined to exhibit pass through do so in low concentrations. For example metal concentrations in MPP indirect dischargers are relatively low in comparison with conventional pollutants concentrations (e.g., BOD, TSS, and oil and grease). EPA will further investigate the data and potential mechanisms behind the removals of metals and nutrients by PSES1 to confirm the PSES1 treatment efficiencies and at the final regulation may issue pretreatment standards based on pass through for all or a sub-set of these pollutants.

Further, EPA has received comments from AMSA that the database used to characterize POTW removal efficiencies is outdated and current POTW performance has improved. EPA is considering different options on how to examine current POTW performance. One option is to evaluate removal efficiencies based on a subset of the 50–POTW database that mainly includes those POTWs that receive large amounts of industrial and/or MPP indirect discharges. EPA solicits comment on how to examine current POTW performance for all pollutants including those pollutants in Tables XI.B–1 and XI.B–2. EPA will publish its revised analysis of PSES1 treatment efficiencies, loadings removals, and POTW removal efficiencies in the forthcoming NODA for public comment. EPA also solicits data regarding the POTW removal efficiencies for all pollutants identified in Tables VII.C–1 and VII.C–2 (*see* also Section XV for data submission instructions).

EPA seeks information on any cases of significant pass through from MPP indirect dischargers where the local limits were not set or exceeded and comments on whether EPA should promulgate pretreatment standards for certain parameters (e.g., nutrients, TDS) based on their potential pass through of POTWs into receiving waters.

Although some pollutants may pass through POTWs following fairly limited treatment, current information available to EPA suggests that the overall levels of these pollutants in MPP raw wastewater does not justify establishing numeric categorical pretreatment standards. EPA is not proposing to establish pretreatment standards based on the difference between MPP pretreatment options and POTW removal efficiencies because the Agency is uncertain that it accurately reflects the incidences of pass through for this industry as a whole. MPP Development Document details the national estimates of pollutants of concern that have greater removal efficiencies under each indirect technology option than POTWs for each of the MPP subcategories.

3. MPP Pretreatment Options Considered

Before determining no pass through or interference that justifies proposing additional regulations, EPA considered four pretreatment options for both existing and new sources. Table XI.B–3 details the summary of EPA's economic analysis of the PSES1 pretreatment option for the various MPP subcategories. EPA includes this information here for public comment. If information presented during the comment period following proposal or the NODA shows that there is sufficient interference or pass through to justify categorical pretreatment standards for this industry, EPA will rely on the information provided here and in the record of this rulemaking to promulgate pretreatment standards. The public is encouraged to comment fully on the following information. With respect to preventing interference incidents, after proposal EPA will evaluate comments and additional information to determine whether another annual production size cut-off for MPP indirect dischargers should be established. Additionally, EPA is soliciting comment on whether it should exempt from categorical pretreatment standards MPP indirect discharges who are below 5% of POTW dry weather hydraulic or organic capacity of the POTW treatment or another percentage level that is appropriate to prevent interference incidents if EPA decides to set categorical pretreatment standards for non-small facilities in the final rule.

TABLE XI.B–3.—ECONOMIC IMPACTS AND TOXIC COST-EFFECTIVENESS SUMMARY TABLE FOR PSES OPTION 1, NON-SMALL FACILITIES

MPP industry sector (40 CFR part 432, subcategory)	Cost/net income (in percent)	Pre-tax annualized cost ($1999 M)	PSES option 1 toxic cost-effectiveness	
			Removals (lb-eq)	$1981/lb-eq
Red Meat First Processors (A–D)	0.57	$7.0	240,421	17
Red Meat Further Processors (F–I)	0.80	$18.8	76,890	143
Independent Renderers (J)	0.50	$1.3	3,918	198
Poultry First Processors (K)	0.55	$10.8	377,651	17
Poultry Further Processors (L)	1.50	$15.3	49,950	178

EPA notes that the PSES1 pretreatment option cost is generally at or below 1% of the facility's net income (profit). Also, based on detailed surveys received in time for EPA's analysis, EPA notes that PSES1 is widely used in non-small MPP pretreatment operations to reduce BOD and oil and grease concentrations. Results from the MPP Detailed Survey used in estimating compliance costs indicate that 26 of the 103 indirect MPP facilities utilize PSES1. The MPP Detailed Survey also identified the following breakdown of treatment-in-place: (1) 64 facilities utilize no pretreatment or pretreatment less effective than PSES1 (*e.g.,* catch basins); (2) 12 facilities utilize PSES2; (3) 1 facility utilize PSES3; and (4) no facilities utilize PSES4. Based on MPP Detailed Survey data, the average oil and grease concentration from MPP indirect facilities employing PSES1 technology (equalization basin, DAF) is 99.5 mg/L.

As previously stated, EPA is not proposing new pretreatment standards for existing or new MPP indirect dischargers because EPA did not have sufficient information to demonstrate that effluents from MPP indirect dischargers interfere with, are incompatible with, or pass through

POTW operations on enough of a wide-scale basis to justify national categorical pretreatment standards. Further, EPA has received comments from AMSA that the database used to characterize POTW removal efficiencies is outdated and current POTW performance has improved. EPA will work with States and pretreatment control authorities to collect additional data on a more systematic basis to determine whether or not national categorical pretreatment standards are necessary. If the additional and existing data indicate that MPP indirect dischargers interfere with or pass through POTW operations, one or more of the following options may be used to establish national categorical pretreatment standards in the final rule for non-small indirect dischargers.

- Establish numeric pretreatment standards for oil and grease and/or ammonia as nitrogen based on PSES1 (equalization and DAF) to prevent POTW interference;
- Establish numeric pretreatment standards for oil and grease and/or ammonia based on equalization alone to reduce MPP indirect discharge variable loads which can, in some cases, prevent POTW interference;
- Establish numeric pretreatment standards to prevent POTW pass through (e.g., oil and grease, nutrients, and/or metals);
- Establish narrative pretreatment standards for oil and grease and/or ammonia as nitrogen based on PSES1 (equalization and DAF) or equalization along to prevent POTW interference;
- Allow POTWs to waive national categorical pretreatment standards for MPP indirect dischargers that do not interfere with POTW operation (e.g., MPP indirect discharger below 5% of POTW dry weather hydraulic or organic capacity of the POTW treatment plant);
- Allow a POTW to waive national categorical pretreatment standards for ammonia for any MPP indirect discharges it receives when that POTW has nitrification capability (*see* 40 CFR 439 as an example of this type of waiver);
- Allow MPP indirect dischargers to demonstrate compliance with either numeric pretreatment standards or with EMS/BMP voluntary alternatives (*see* Section XI.F);
- Establish national categorical pretreatment standards for MPP indirect dischargers based on compliance with BMPs or a regulatory BMP alternative.

EPA is soliciting comment on 100 mg/L as a potential pretreatment maximum daily standards for oil and grease and/or ammonia as nitrogen. EPA notes that this is not completely a parallel case and EPA solicits comment on how EPA should consider setting pretreatment standards for ammonia as nitrogen to prevent interference. EPA is basing the 100 mg/L potential pretreatment maximum daily standards on the Petroleum Refining Industry oil and grease and ammonia standards because those standards were designed to prevent POTW interference, which may be a problem for the meat and poultry products industry as well. The Petroleum Refining Industry oil and grease pretreatment standard of 100 mg/L is based on the necessity to minimize POTW interference by minimizing the possibility of slug loadings of oil and grease being discharged to POTWs. (Docket No. W–01–06, Record No. 00167). Ammonia as nitrogen concentrations above 100 mg/L can exhibit inhibitory effects on the activated sludge process and cause POTW interference (Docket No. W–01–06, Record No. 00167). EPA is also soliciting comment on potential concentration pretreatment maximum daily standards for oil and grease and ammonia as nitrogen, respectively based on the performance of PSES1 technology (DAF with chemical flocculant addition, equalization tank). These PSES1 concentration based standards are all below 100 mg/L for oil and grease with the exception of one limit for poultry facilities that do slaughtering and rendering operations (*see* MPP Development Document). EPA solicits comment on whether these potential pretreatment maximum daily standards for oil and grease and ammonia as nitrogen would sufficiently prevent POTW interference. EPA is also soliciting comment whether these standards should be presented as production based standards (e.g., lb-pollutant/1000 lb-LWK) (*see* MPP Development Document).

C. Meat Facilities (Subcategories A, B, C, D, F, G, H and I)

After considering all of the technology options described in Section VII.A, in light of the factors specified in Section 304(b)(2)(B) and 306 of the Clean Water Act, as appropriate, EPA proposed to select the technology options identified below as BPT, BAT, BCT, and NSPS for Subcategories A, B, C, D, F, G, H and I of the proposed rule. The proposed effluent limitations apply only to meat facilities that slaughter more than 50 million pounds per year (for Subcategories A, B, C and D) or produce more than 50 million pounds per year of finished products (for Subcategories F, G, H and I). EPA is not revising limitations and standards for meat facilities in Subpart E as all of these facilities are small facilities (*see* Section III.A.1).

1. Subcategories A through D (Meat Slaughtering Facilities)

a. Regulated Pollutants. i. BPT EPA proposes establishing BPT limitations for COD. These pollutants are characteristic of meat slaughtering wastewater. These proposed regulated pollutants are key indicators of the performance of the secondary biological treatment process, which is the key component of the model BPT treatment systems for these subcategories.

ii. BAT. EPA proposes establishing BAT limitations for ammonia-N, total nitrogen and total phosphorus. These pollutants are characteristic of meat slaughtering wastewater. These proposed regulated pollutants are key indicators of the performance of the tertiary biological treatment process, which is the technology basis for the BAT and NSPS requirements for these subcategories.

iii. NSPS. EPA proposes to regulate the same pollutants for NSPS as those for BAT, with the addition of BOD, TSS, oil and grease (measured as HEM) and fecal coliform.

b. Technology Selected. i. BPT. The Agency is proposing effluent limitations guidelines based on BPT–2 for Subcategories A through D. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: equalization, dissolved air flotation, secondary biological treatment including some degree of nitrification and chlorination/dechlorination. BPT–2 represents an improved version of the existing BPT technology. EPA has determined that the cost and removal comparison for this option is reasonable.

As presented in Section VII, three BPT options were considered. EPA estimated the costs and pollutant reductions that would be achieved if these options were applied to all 71 facilities subject to today's proposal. Limitations based on BPT–2 remove at least 12.3 million pounds of pollutants over current discharge at an annualized compliance cost of $9.9 million ($1999). Limitations based on BPT–2 results in a cost to net income ratio of 0.28%, which means that approximately 0.28% of a facility's profits would be spent on compliance if they were to implement this option. Also, the results of the BPT cost to effluent reductions benefits is $0.81 ($1999/pound). Thus, this option is considered cost-reasonable.

EPA also evaluated option 3 and option 4 as basis for establishing BPT limitations that would be more stringent than the level of control being proposed

today. However, EPA believes that Option 2 represent BPT (or ''average of the best'') treatment for this industry subcategory. These options were evaluated in the BCT analysis.

ii. BAT. The Agency is proposing effluent limitations guidelines based on BAT–3 for Subcategories A through D. The treatment technologies that serve as the basis for the development of the proposed BAT limits are: equalization, dissolved air flotation and secondary biological treatment with nitrification and denitrification. EPA has determined that the cost for nutrient removal for this subcategory is cost effective; *i.e.* is less than the cost for nutrient removal performed at a POTW. The Economic Analysis Section (*see* Section VIII) presents the methodology for evaluating cost effectiveness for nutrient pollutants. As presented in Section VII.A, three BAT options were under consideration. Effluent limitations based on BAT–2 remove approximately 2.0 million pounds of phosphorus over current discharge at an annualized compliance cost of $9.9 million ($1999). BAT–3 removes an additional 40 million pounds of nitrogen and phosphorus over BAT–2 at an additional annualized compliance cost of $32.3 million ($1999). Both of these options result in a cost to net income ratio of less than 1.5%, so both are considered economically achievable. However, since BAT–3 removes more pounds of nutrients at a cost that is economically achievable, EPA has chosen to propose effluent limitations based on BAT–3.

EPA also evaluated BAT–4 as a basis for establishing BAT more stringent than the level of control being proposed today. As was the case for BAT–3, the cost to net income of less than 2.4% shows that the option is economically achievable. However, EPA is not proposing to establish limits based on BAT–4 because BAT–3 achieves nearly equivalent reductions in nitrogen and phosphorus for much less cost. EPA has determined that BAT–3 would remove 42.8 million pounds of nitrogen and phosphorus per year at a total annualized cost of $42.2 million ($1999). In contrast, BAT–4 would remove 44.9 million pounds of nitrogen and phosphorus per year at a total annualized cost of $73.5 million ($1999). In view of the fact that BAT–4 appears to achieve an increase in removals of only 5.0% and yet would prompt annualized costs to increase by 74%, EPA has determined that BAT–3, not BAT–4 is the ''best available'' technology economically achievable for Subcategories A, B, C and D.

iii. NSPS. The treatment technologies that serve as the basis for the development of the proposed NSPS limits are the same as the BAT for these subcategories. As was the case for BAT, EPA did not pursue additional, more stringent, options for NSPS because as with existing sources Option 4 is not expected to achieve significant incremental pollutant reductions. Further EPA does not expect the cost to construct the treatment system to achieve Option 4 performance would be significantly less for a new source than if would be for an existing source to retrofit their existing system. Therefore, EPA proposes BAT–3 as the technology basis for NSPS for subcategories A–D because EPA believes it represents the best demonstrated technology for this subcategory.

2. Subcategories F through I (Meat Further Processing Facilities)

a. Regulated Pollutants.

i. BPT EPA proposes establishing BPT limitations for COD. These pollutants are characteristic of meat further processing wastewater. These proposed regulated pollutants are key indicators of the performance of the secondary biological treatment process, which is the key component of the model BPT treatment systems for these subcategories.

ii. BAT. EPA proposes establishing BAT limitations for ammonia-N, total nitrogen and total phosphorus. These pollutants are characteristic of meat further processing wastewater. These proposed regulated pollutants are key indicators of the performance of the tertiary biological treatment process, which is the key component of the model BAT and NSPS treatment system for these subcategories.

iii. NSPS EPA proposes to regulate the same pollutants for NSPS as those for BAT, with the addition of BOD, TSS, oil and grease (measured as HEM) and fecal coliform.

b. Technology Selected. i. BPT The Agency is proposing to establish effluent limitations based on BPT–2 for Subcategories F through I. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: Equalization, dissolved air flotation, secondary biological treatment and chlorination/dechlorination. As discussed above, the proposed BPT–2 limits for COD reflects average of the best performance of the existing technology in place at meat processing facilities, which also calls for secondary biological treatment. EPA has determined that the cost and removal comparison for this option is reasonable.

As presented in Section VII.A, three BPT options were under consideration. BPT–2 removes at least 0.25 million pounds of pollutants over current discharge at an annualized compliance cost of $0.4 million ($1999). Option 2 results in a cost to net income ratio of 0.14%, which means that approximately 0.14% of a facility's profits would be spent on compliance if they were to implement this option. Also, the results of the BPT cost to effluent reductions benefits is $1.59 ($1999/pound). Thus, this option is considered cost-reasonable.

EPA also evaluated option 3 and option 4 as basis for establishing BPT more stringent than the level of control being proposed today. However, EPA believes that Option 2 represent BPT (or ''average of the best'') treatment for this industry subcategory. These options are considered in the evaluation of BCT controls.

ii. BAT. The Agency is proposing to establish effluent limitations based on BAT–3 for Subcategories F, G, H and I. The treatment technologies that serve as the basis for the development of the proposed BAT limits are: equalization, dissolved air flotation and secondary biological treatment with nitrification and denitrification. EPA has determined that the cost for nutrient removal for this subcategory is cost effective and less than the cost for nutrient removal performed at a POTW. As presented in Section VII.A, three BAT options were under consideration. EPA estimates that the 20 facilities in Subparts F through I would achieve a removal approximately 0.04 million pounds of phosphorus over current discharge at an annualized compliance cost of $0.4 million ($1999) with BAT–2. BAT–3 removes an additional 2.08 million pounds of nitrogen and phosphorus over BAT–2 at an additional annualized compliance cost of $0.1 million ($1999). Both of these options result in a cost to net income ratio of less than 0.5%, so both are considered economically achievable. However, since BAT–3 removes more pounds of nutrients at a cost that is economically achievable, EPA has chosen to propose effluent limitations based on BAT–3.

EPA also evaluated BAT–4 as a basis for establishing BAT more stringent than the level of control being proposed today. As was the case for BAT–3, the cost to net income of less than 1.4% shows that the option is economically achievable. However, EPA is not proposing to establish limits based on BAT–4 because it determined that BAT–3 achieves nearly equivalent reductions in nitrogen and phosphorus for much less cost. EPA has determined that

BAT–3 would remove 2.12 million pounds of nitrogen and phosphorus per year at a total annualized cost of $0.5 million ($1999). In contrast, BAT–4 would remove only 4,530 additional pounds of nitrogen and phosphorus per year at a total annualized cost of $3.5 million ($1999). In view of the fact that BAT–4 appears to achieve an increase in removals of only 0.2% and yet would prompt annualized costs to increase by 600%, EPA has determined that BAT–3, not BAT–4 is the ''best available'' technology economically achievable for Subcategories F, G, H and I.

iii. NSPS. As was the case for BAT, EPA did not pursue additional, more stringent, options for NSPS because as with existing sources Option 4 is not expected to achieve significant incremental pollutant reductions. Further EPA does not expect the cost to construct the treatment system to achieve Option 4 performance would be significantly less for a new source than if would be for an existing source to retrofit their existing system. Therefore, EPA proposes BAT–3 as the technology basis for NSPS for Subcategories F–I because EPA believes it represents the best demonstrated technology for this subcategory.

D. Independent Rendering Facilities (Subcategory J)

After considering all of the technology options described in Section VII.A, in light of the factors specified in section 304(b)(2)(B) and 306 of the Clean Water Act, as appropriate, EPA proposed to select the technology options identified below as BPT, BAT, BCT, and NSPS for Subcategory J of the proposed rule.

1. Regulated Pollutants. a. BPT. EPA proposes establishing BPT limitations for COD. These pollutants are characteristic of meat rendering wastewater. These proposed regulated pollutants are key indicators of the performance of the secondary biological treatment process, which is the key component of the model BPT treatment systems for these subcategories.

b. BAT. EPA proposes to revise BAT limitations for ammonia-N. This pollutant is characteristic of meat rendering wastewater. The proposed regulated pollutant is a key indicator of the performance of the secondary biological treatment process, which is the key component of the model BPT, BAT and NSPS treatment system for this subcategory.

c. NSPS. EPA proposes to revise the new source performance standards for BOD, TSS, oil and grease (measured as HEM), fecal coliform and ammonia.

2. Technology Selected

a. BPT. The Agency is proposing to establish effluent limitations based on BPT–2 for Subcategory J. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: Equalization, dissolved air flotation and secondary biological treatment with nitrification. Since secondary biological treatment already accomplishes some nitrification, EPA believes that the proposed BPT is an improved version of the existing BPT technology basis which calls for secondary biological treatment. Option 2 results in a cost to net income ratio of 0.68%, which means that approximately 0.68% of a facility's profits would be spent on compliance if they were to implement this option. Also, the results of the BPT cost to effluent reductions benefits is $0.03 ($1999/pound). Thus, this option is considered cost-reasonable.

EPA also evaluated option 3 and option 4 as basis for establishing BPT more stringent than the level of control being proposed today. However, EPA believes that Option 2 represent BPT (or ''average of the best'') treatment for this industry subcategory. These options were considered as possible options for revising the BCT limitations.

b. BAT. The Agency is proposing to establish effluent limitations based on BAT–2 for Subcategory J. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: Equalization, dissolved air flotation and secondary biological treatment with nitrification. EPA has determined that this option is cost-effective and economically achievable. As presented in Section VII.A, three BAT options were under consideration. EPA estimates that the 23 existing facilities that would be subject to today's proposal would achieve removals of approximately 87,000 pounds of nitrogen and phosphorus over current levels discharged at an annualized compliance cost of $0.6 million ($1999) under BAT–2. BAT–3 removes an additional 396,000 pounds of phosphorus over BAT–2 at an additional annualized compliance cost of $3.7 million ($1999). BAT–2 results in a cost to net income ratio of less than 0.7%, so this option is considered economically achievable. BAT–3 results in a cost to net income ratio of greater than 5.5%, which is also considered economically achievable. However, since EPA has determined that the cost for nutrient removal for BAT–3 is not cost effective and is more than the cost for nutrient removal performed at a POTW, EPA has chosen to propose effluent limitations based on BAT–2 for Subcategory J.

EPA also evaluated BAT–4 as a basis for establishing BAT more stringent than the level of control being proposed today. The cost to net income of more than 6.7% for BAT–4 is even greater than the ratio for Option 3. Since the Agency is not proposing Option 3 on the basis of the potential economic impact, EPA is not proposing Option 4 which has a greater potential impact. Thus, EPA has determined that BAT–2 is the ''best available'' technology economically achievable for Subcategory J.

c. NSPS. The treatment technologies that serve as the basis for the development of the proposed NSPS limits are the same as the BAT and BPT for this subcategory. EPA does not expect a substantial cost savings for new facilities to design and construct a treatment system to achieve more stringent effluent standards consistent with either Option 3 or 4. Thus, EPA believes Options 3 and 4 could pose a barrier to entry for new sources in this Subcategory. Therefore, EPA proposes BAT–2 as the technology basis for NSPS for Subcategory J because EPA believes it represents the best demonstrated technology economically achievable for this subcategory.

E. Poultry Facilities (Subcategories K and L)

EPA is proposing to establish different effluent limitations to apply only to Poultry facilities that slaughter more than 10 million pounds per year (for Subcategory K) or produce more than 7 million pounds per year of finished products (for Subcategory L).

1. Poultry First Processing Facilities (Subcategory K)

After considering all of the technology options described in Section VII.A, in light of the factors specified in section 304(b)(2)(B) and 306 of the Clean Water Act, as appropriate, EPA proposes to select the technology options identified below as BPT, BAT, BCT, and NSPS for Subcategory K of the proposed rule.

a. Regulated Pollutants. i. BPT. EPA proposes establishing BPT limitations for BOD, TSS , Oil and Grease (measured as HEM), and ammonia as N for facilities that slaughter no more than 10 million pounds per year (small facilities). EPA proposes establishing BPT limitations for BOD, TSS, Oil and Grease (measured as HEM), fecal coliform, ammonia as N, total nitrogen and total phosphorus for facilities that slaughter more than 10 million pounds per year (large facilities). These pollutants are characteristic of poultry

slaughtering wastewater. These proposed regulated pollutants are key indicators of the performance of the secondary and tertiary biological treatment process, which are the key components of the model BPT treatment systems for the small and large facilities, respectively.

ii. BAT. EPA proposes to regulate the same pollutants for BAT as those for BPT.

iii. NSPS. EPA proposes to regulate the same pollutants for NSPS as those for BAT.

b. Technology Selected. i. BPT. The Agency is proposing to establish effluent limitations based on BPT–1 for small facilities in Subcategory K. This option is based on the current practices in place at facilities as reported to EPA through the detailed surveys. Option 1 assumes a less aggressive nitrification treatment than Option 2. Based on the survey responses the Agency has reviewed to date we do not believe that there are any small poultry first processors, however, in the event that a small number of facilities exist which were not captured through EPA's survey efforts, EPA is proposing to establish BPT limits.

The Agency is proposing to establish effluent limitations based on BPT–3 for large facilities in Subcategory K. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: Equalization, dissolved air flotation and secondary biological treatment with nitrification and denitrification. As presented in Section VII.A, three BPT options were under consideration. EPA has estimated the costs and pollutant reductions associated with each technology option as it would apply to the 95 facilities that would be subject to these proposed requirements. BPT–2 removes at least 1.63 million pounds of pollutants over current discharge at an annualized cost of $4.8 million ($1999). BPT–3 removes at least an additional 5.7 million pounds of pollutants over BPT–2, at an additional annualized compliance cost of $29.7 million. BPT Option 2 results in a cost to net income ratio of 0.34%, which means that approximately 0.34% of a facility's profits would be spent on compliance if they were to implement this option. Also, the results of the BPT cost to effluent reductions benefits is $2.95 ($1999/pound). Option 3 results in a cost to net income of 2.73%, and the results of the BPT cost to effluent reduction benefits is $4.71 ($1999/pound). Thus, both of these options are considered cost-reasonable. However, since Option 3 removes more pollutants at a cost that is reasonable, BPT–3 was selected for this subcategory.

EPA also evaluated option 4 as basis for establishing BPT more stringent than the level of control being proposed today. EPA estimates that BPT–4 results in a cost to net income ratio of 3.56% and the ratio of cost to effluent reduction benefits is 5.46. However, EPA is not proposing to establish BPT limits based on BPT–4 because it determined that BPT–3 achieves nearly equivalent pollutant reductions at less cost. EPA has determined that BPT–3 would remove at least 7.32 million pounds of pollutants per year at a total annualized cost of $34.5 million ($1999). In contrast BPT–4 would remove an additional 10.7% of pollutants at an additional cost of 28%. In view of the fact that BPT–4 appears to achieve minimal additional pollutant removals and yet would prompt additional total annualized costs of $9.7 million ($1999), EPA has selected BPT–3, not BPT–4, for this Subcategory.

ii. BAT. The Agency is proposing to set BAT equal to BPT for small facilities in Subcategory K EPA was unable to determine whether or not there is an economically achievable BAT treatment technology more stringent than proposed for BPT because no small poultry first processors were identified. EPA based it's decision on the fact that there is no economically achievable BAT treatment technology more stringent than proposed for BPT for poultry further processors.

The Agency is proposing to set BAT equal to BPT for large facilities in Subcategory K because EPA has determined that there is no economically achievable BAT treatment technology more stringent than the proposed BPT treatments. Also, EPA has determined that the cost for nutrient removal for this subcategory is cost effective; it is less than the cost for nutrient removal performed at a POTW. As presented in Section VII.A, three BAT options were under consideration. BAT–2 removes approximately 810,000 pounds of phosphorus over current discharge at an annualized compliance cost of $4.8 million ($1999). BAT–3 removes an additional 7.7 million pounds of nitrogen and phosphorus over BAT–2 at an additional annualized compliance cost of $29.7 million ($1999). BAT–2 results in a cost to net income ratio of less than 0.4%, so this option is considered economically achievable. Since BAT–3 results in a cost to net income ratio of less than 2.8%, which is also economically achievable, EPA has chosen to set BAT equal to BPT for Subcategory K.

EPA also evaluated BAT–4 as a basis for establishing BAT more stringent than the level of control being proposed today. The cost to net income of more than 3.6% for BAT–4 shows that the option is economically achievable. However, EPA is not proposing to establish BAT limits based on BPT–4 because it determined that BPT–3 achieves nearly equivalent pollutant reductions at less cost. EPA has determined that BPT–3 would remove at least 8.37 million pounds of total nitrogen and total phosphorus per year at a total annualized cost of $34.5 million ($1999). In contrast BPT–4 would remove only 8.87 pounds of total nitrogen and total phosphorus at an additional cost of 28%. In view of the fact that BPT–4 achieves similar pollutant removals and yet would prompt additional total annualized costs of $9.7 million ($1999), EPA has selected BPT–3, not BPT–4, for this Subcategory. Thus, EPA has determined that BAT–3, not BAT–4 is the ''best available'' technology economically achievable for large facilities in Subcategory K.

iii. NSPS. EPA did not pursue additional, more stringent, options for small facilities in Subcategory K for NSPS because EPA does not expect the cost to construct the treatment system to achieve Option 2 performance would be significantly less for a new source than if would be for an existing source to retrofit their existing system. Therefore, EPA proposes BAT–1 as the technology basis for NSPS for small facilities in Subcategory K because EPA believes it represents the best demonstrated technology for this subcategory.

As was the case for BAT, EPA did not pursue additional, more stringent, options for large facilities in Subcategory K for NSPS because, as with existing sources, Option 4 is not expected to achieve significant incremental pollutant reductions. Further EPA does not expect the cost to construct the treatment system to achieve Option 4 performance would be significantly less for a new source than it would be for an existing source to retrofit their existing system. Therefore, EPA proposes BAT–3 as the technology basis for NSPS for large facilities in Subcategory K because EPA believes it represents the best demonstrated technology for this subcategory.

2. Poultry Further Processing Facilities (Subcategory L)

After considering all of the technology options described in Section VII.A, in light of the factors specified in Section 304(b)(2)(B) and 306 of the Clean Water Act, as appropriate, EPA proposed to select the technology options identified below as BPT, BAT, BCT and NSPS for Subcategory L of the proposed rule.

a. Regulated Pollutants. i. BPT. EPA proposes establishing BPT limitations for BOD, TSS , Oil and Grease (measured as HEM), and ammonia as N for facilities that slaughter no more than 7 million pounds per year (small facilities). EPA proposes establishing BPT limitations for BOD, TSS, Oil and Grease (measured as HEM), fecal coliform, ammonia as N, total nitrogen and total phosphorus for facilities that slaughter more than 7 million pounds per year (large facilities). These pollutants are characteristic of poultry further processing wastewater. These proposed regulated pollutants are key indicators of the performance of the secondary and tertiary biological treatment process, which are the key components of the model BPT treatment systems for the small and large facilities, respectively.

ii. BAT. EPA proposes to regulate the same pollutants for BAT as those for BPT.

iii. NSPS. EPA proposes to regulate the same pollutants for NSPS as those for BAT.

b. Technology Selected. i. BPT. The Agency is proposing to establish BPT–1 for small facilities in Subcategory L. This is the same technology as described above for Subcategoy K. EPA estimates that there are four small facilities that could be affected by these proposed requirements and these requirements could cost $2,600.

The Agency is proposing to establish BPT–3 for large facilities in Subcategory L. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: equalization, dissolved air flotation and secondary biological treatment with nitrification and denitrification. As presented in Section VII.A, three BPT options were under consideration. For the sixteen facilities that would be subject to these proposed requirements EPA estimates that BPT–2 removes at least 0.09 million pounds of pollutants over current discharge at an annualized cost of $0.3 million ($1999). BPT–3 removes at least an additional 0.22 million pounds of pollutants over BPT–2, at an additional annualized compliance cost of $1.9 million. BPT Option 2 results in a cost to net income ratio of 0.39%, which means that approximately 0.39% of a facility's profits would be spent on compliance if they were to implement this option. Also, the results of the BPT cost to effluent reductions benefits is $3.28 ($1999/pound). Option 3 results in a cost to net income of 4.23%, and the results of the BPT cost to effluent reduction benefits is $7.11 ($1999/pound). Thus, both of these options are considered cost-reasonable. However, since Option 3 removes more pollutants at a cost that is reasonable, BPT–3 was selected for this subcategory.

EPA also evaluated option 4 as basis for establishing BPT more stringent than the level of control being proposed today. EPA estimates that BPT–4 results in a cost to net income ratio of 6.04% and the ratio of cost to effluent reduction benefits is 9.54. EPA is not proposing to establish BPT limits based on BPT–4 because it determined that BPT–3 achieves nearly equivalent pollutant reductions at less cost. EPA has determined that BPT–3 would remove at least 0.31 million pounds of pollutants per year at a total annualized cost of $2.2 million ($1999). In contrast BPT–4 would remove at least 0.32 million pounds of pollutants at an additional cost of 36%. In view of the fact that BPT–4 appears to achieve less pollutant removals and yet would prompt additional total annualized costs of $1.9 million ($1999), EPA has selected BPT–3, not BPT–4, for this Subcategory.

ii. BAT. The Agency is proposing to set BAT equal to BPT for small facilities in Subcategory L because EPA has determined that there is no economically achievable BAT treatment technology more stringent than the proposed BPT treatment. BAT–2 results in a cost to net income ratio of greater than 20%, which would cause significant economic impacts for these facilities, so EPA has chosen to set BAT equal to BPT for small facilities in Subcategory L.

The Agency is proposing to establish effluent limitations based on BAT–3 for large facilities in Subcategory L. The treatment technologies that serve as the basis for the development of the proposed BAT limits are: equalization, dissolved air flotation and secondary biological treatment with nitrification and denitrification. EPA has determined that there is no economically achievable BAT treatment technology more stringent than the proposed BPT treatment. As presented in Section VII.A, three BAT options were under consideration. BAT–2 removes approximately zero pounds of phosphorus over current discharge at an annualized compliance cost of $0.3 million ($1999). BAT–3 removes an additional 0.32 million pounds of nitrogen and phosphorus over BAT–2 at an additional annualized compliance cost of $1.9 million ($1999). BAT–2 results in a cost to net income ratio of less than 0.4%, so this option is considered economically achievable. BAT–3 results in a cost to net income ratio of less than 4.25%, which is also economically achievable, so EPA has chosen to set BAT equal to BPT for Subcategory L.

EPA also evaluated BAT–4 as a basis for establishing BAT more stringent than the level of control being proposed today. The cost to net income of more than 6% for BAT–4 shows that the option would cause significant economic impacts. Also, EPA is not proposing to establish BAT limits based on BPT–4 because it determined that BAT–3 achieves nearly equivalent pollutant reductions at less cost. EPA has determined that BAT–3 would remove at least 0.32 million pounds of total nitrogen and total phosphorus per year at a total annualized cost of $2.2 million ($1999). In contrast BPT–4 would remove only 0.318 pounds of total nitrogen and total phosphorus at an additional cost of 36%. In view of the fact that BPT–4 appears to achieve reduced pollutant removals and yet would prompt additional total annualized costs of $0.8 million ($1999), EPA has selected BPT–3, not BPT–4, for this Subcategory. Thus, EPA has determined that BAT–3, not BAT–4 is the ''best available'' technology economically achievable for large facilities in Subcategory L.

iii. NSPS. EPA did not pursue additional, more stringent, options for small facilities in Subcategory L for NSPS because EPA does not expect the cost to construct the treatment system to achieve Option 2 performance would be significantly less for a new source than if would be for an existing source to retrofit their existing system. Therefore, EPA proposes BAT–1 as the technology basis for NSPS for small facilities in Subcategory L because EPA believes it represents the best demonstrated technology for this subcategory.

The treatment technologies that serve as the basis for the development of the proposed NSPS limits are the same as the BAT for this subcategory. As was the case for BAT, EPA did not pursue additional, more stringent, options for NSPS because, as with existing sources, Option 4 is not expected to achieve significant incremental pollutant reductions. Further, EPA does not expect the cost to construct the treatment system to achieve Option 4 performance would be significantly less for a new source than it would be for and existing source to retrofit their system. Therefore, EPA proposes BAT–3 as the technology basis for NSPS for subcategory L because EPA believes it represents the best demonstrated technology for this subcategory.

F. Regulatory Alternatives for Meat and Poultry Products Industry

EPA is soliciting comment on alternative approaches that the Agency is considering for the meat and poultry products industry. EPA primarily considered these approaches as alternatives to potential numeric pretreatment standards before the Agency determined that it did not have enough information necessary to establish categorical pretreatment standards for this industry (*see* Section XI.B). The purpose of any alternative would be to help facilities in this industry comply with regulations or foster voluntary adoption of environmental management systems that could help organizations reduce environmental impacts from unregulated activities through pollution prevention and other approaches. Specifically, the Agency is considering the following two options.

Under the first option, EPA would not issue pretreatment standards for indirect dischargers in the final rule. Rather, EPA would work with the industry to develop and implement voluntary environmental management systems (EMSs). In a few years, EPA would plan to evaluate the performance of the voluntary program and either conclude that the voluntary program is sufficient, revisit the issue of pretreatment standards for indirect dischargers, and/or consider other appropriate steps.

Under the second option, EPA would promulgate pretreatment standards for non-small indirect dischargers. However, indirect dischargers would also receive the option of meeting regulatory obligations by implementing EMSs that include environmental audit programs (EAPs). Each of these options is discussed below.

EPA is also considering whether an EMS-based compliance alternative similar to the second option could be applied also to direct dischargers. This option is also discussed further below.

1. Application of Regulatory or EMS Alternatives to Meat and Poultry Processors

EPA believes these EMS-based alternatives would be attractive to many meat and poultry processors that discharge wastewater to Publicly Owned Treatment Works (POTWs) if EPA establishes categorical pretreatment standards. The majority of the meat and poultry products facilities are discharging wastewater indirectly through POTWs and besides the use of Dissolved Air Flotation (DAF) or other types of oil and grease treatment and equalization, few of these facilities reported having any significant amount of wastewater treatment to reduce nutrient pollutants. Although the Agency is not proposing to establish nutrient standards for indirect dischargers, the Agency believes that a significant reduction of nutrients can be achieved through the implementation of an EMS or an EAP and the implementation of specific BMPs. Each of these (EMS, EAP and specific BMPs) will be described in more detail in subsequent discussions. Implementation of an EMS or EAP by meat and poultry products facilities could also result in a range of other environmental benefits (*e.g.,* reduced odor, noise, energy and or water consumption). Given the potential benefits of an EMS, EPA is considering an approach in which no pretreatment standards would be developed for meat and poultry products indirect dischargers rather, EPA would initiate an expanded program to work in partnerships with meat industry facilities, organizations, and other interested parties to promote the adoption and implementation of EMSs by these facilities. EPA would develop guidance on how to develop EMSs for meat and poultry product indirect dischargers and then work with our partners at the State Permitting and Control Authorities to inform them and the meat and poultry processors about the potential benefits of implementing an EMS. EPA would monitor actions toward the development of EMSs by meat and poultry processors and evaluate the improvements to water quality and the environment that result. Not later than five years after promulgation of this regulation, EPA would issue a report providing a comprehensive evaluation of the EMS initiative. The EMS or EAP alternatives EPA is considering would allow indirect dischargers the opportunity to avoid installing wastewater treatment and could, therefore, be less costly.

EPA notes that allowing operators the use of an EMS to demonstrate compliance with potential pretreatment standards assumes that the POTW or the controlling authority is knowledgeable and available. EPA also notes that the MPP indirect dischargers of greatest concern are frequently in smaller communities where the POTW typically operates without an approved pretreatment program or the POTW is typically a small-scale operation. EPA solicits comment on whether these rural or small POTW operations are in a position to adequately assess compliance with the EMS regulatory option and to effectively respond to significant deficiencies. EPA also solicits comment on whether the burden for ensuring compliance with this EMS regulatory alternative would fall on the States or EPA Regions as control authorities and whether such evaluations would be much more difficult to perform on a national basis than a numeric standard. EPA also solicits comment on what requirements can prevent facilities, which use the EMS regulatory alternative and still cause pass through or interference at a POTW, from causing such pass through or interference again. EPA also solicits comments on implementation of a voluntary EMS, perhaps as part of the Performance Partnership (see below).

EPA also solicits comment on how this compliance alternative can be applied to direct dischargers. Most direct dischargers have already installed wastewater treatment to comply with their NPDES Permits. Depending on the effectiveness of the BMPs, EPA may consider offering reduced requirements for monitoring wastewater requirements for direct dischargers which implement an EMS. This could include reduction in the frequency of monitoring, or monitoring for a reduced list of specific pollutants. EPA solicits comments on how an EMS compliance alternative could be applied to direct dischargers and whether EPA should consider this as a compliance alternative for direct dischargers.

2. Performance Improvement Partnership With the Meat and Poultry Processing Industry

In parallel with the development of the MPP ELGS proposal, EPA is working in partnership with the meat and poultry processing industry, State and local government agencies, USDA, and other stakeholders to promote improved environmental performance in the meat and poultry products industry. This partnership has been developed under the Agency's Sustainable Industries Partnership Program. Through the Sustainable Industries program, part of the Agency's overall innovations agenda, EPA works with selected industry sectors to voluntarily set industry-wide performance improvement objectives, develop the right tools and incentives to beneficially affect facility performance, address sector-specific regulatory reform needs, and measure results.

The voluntary partnership program for the meat and poultry processing industry is still under development as of the date of this proposed rule. The purpose of the program is to bring environmental improvements that will benefit meat and poultry processing facilities and their surrounding

communities while maintaining extremely high levels of food safety. The program has industry-generated performance objectives, plus four project elements that were identified as important actions to assist and promote better environmental performance by meat and poultry processing facilities and others.

Participants in developing this program include the American Meat Institute (AMI), the American Association of Meat Processors (AAMP), the U.S. Department of Agriculture (USDA), several State agencies, EPA programs and regions, and other interested constituent groups. Combined, the AMI and AAMP membership totals approximately 2,500 members and represents more than 75% of the total production volume for the meat and poultry processing industry.

Although the elements of the voluntary partnership are under development, AMI and AAMP have stated their commitment to the pursuit of continuous environmental improvement and compliance with environmental regulations at the facility level and in the industry at large. Elements of this commitment may include the following, performance-related actions:

(1) To work in partnership with Federal and State government agencies to promote nationwide industry compliance;

(2) To expand education on best practices, including the promotion of appropriate environmental management systems (EMS);

(3) To reduce environmental impacts, including wastewater discharges and solid waste, associated with facility operations;

(4) To work with suppliers and customers to identify and promote pollution prevention practices to achieve cleaner production and reduced waste;

(5) To develop guidance for communicating with employees, suppliers, customers, and the public about the environmental impacts of the industry; and

(6) To conserve and protect natural resources.

In support of the voluntary performance objectives, the Meat and Poultry Processing Partnership Program includes a set of four projects, currently underway, that will help to enable the meat industry as a whole to achieve the voluntary performance objectives. The projects are described briefly.

a. Environmental Management System (EMS). Program partners drafted guidance materials and a training program for the meat industry to broadly implement corporate/facility-appropriate EMSs. The project team has drafted an EMS Guide for the Meat and Poultry Processing Industry, on the plan-do-check-act continuous improvement model. This EMS Guide consists of 10 modules covering policy, planning, implementation and operation, checking and corrective action, and management review.

This voluntary EMS tailored for meat and poultry processors can be used by both small and large meat and poultry processors to implement an EMS. Currently, EPA is partnering with the Iowa Waste Reduction Center (IWRC) and the Iowa Department of Natural Resources (IDNR) to pilot test the Guide with five companies. IWRC and IDNR are providing technical assistance and implementation consulting to the five companies. The pilot will be completed in July 2002 and then EPA will evaluate the pilot and incorporate lessons learned into the final draft of the EMS Guide for Meat and Poultry Processors. The final guide is expected to be completed by September 2002, at which point this tool will be widely marketed throughout the meat and poultry processing industry with the direct involvement of the industry's two major trade groups.

This EMS project is strictly a voluntary approach that is part of the larger partnership program with the meat and poultry processing industry. The project is designed to develop and market a tool tailored to the needs of this specific industry, to be used by the industry itself to promote improved performance by individual facilities. The Agency is also seeking comment on the option of using a standardized EMS as a stand-alone alternative to the setting of national numeric pretreatment standards (*see* Section XI.B).

b. Customer-oriented'' compliance assistance tools. Program partners are developing tools to assist meat and poultry processors in maintaining compliance with Federal, State and local environmental requirements. Many meat and poultry processors have indicated that they have difficulty in keeping up with the many environmental regulations surrounding their facilities. Currently, the project team is developing a custom checklist of regulatory requirements, designed specifically for meat and poultry processing facilities. Guidance is also being developed to help small processors dispose of solid waste and biosolids.

The Office of Compliance in EPA's Office of Enforcement and Compliance Assurance, in partnership with industry, academic institutions, environmental groups, and other Federal and State agencies, has established a ''virtual'' (web-based) national Compliance Assistance Center known as the National Agriculture Compliance Assistance Center (Ag Center: *http://es.epa.gov/oeca/ag/*). The Ag Center offers comprehensive, easy-to-understand information on environmentally protective and agriculturally sound approaches to compliance. EPA will use the Ag Center as one of its tools for publicizing the final Effluent Limitation Guideline and related voluntary approaches.

c. External stewardship program with livestock suppliers. Nutrient management by livestock producers is the most important environmental issue facing the overall industry. EPA is developing a replicable external stewardship program for meat and poultry processors to work with their suppliers on pilot projects to test and measure the impact of environmental best management practices (BMPs), with a focus on nutrient management. Project teams in Iowa and other midwest States are working to design and voluntarily implement BMPs and nutrient management plans for livestock producers, building on existing processor-supplier relationships. The goal of this project is to demonstrate that voluntary environmental stewardship by livestock producers can be defined, documented, measured, and progress achieved. Project results will help demonstrate whether voluntary programs can be used to augment existing regulations and eliminate the need for expanded regulatory actions.

d. Best management practice tools. Reducing, chloride, nitrogen and phosphorus pollutants in meat and poultry processing wastewater while maintaining high food quality standards poses a challenge to many meat and poultry processors. In addition, the disposal of meat and poultry processing biosolids and renderable materials such as offal poses a serious threat to the economic viability of small meat and poultry processors. To address these environmental impacts through non-regulatory means, EPA and its partners are developing BMP guidance materials for handling and disposal of rendering materials, and for chloride, nitrogen, and phosphorus discharges. The project team will evaluate these management practices and develop measures of their effectiveness. Long-term deployment of the final tools will occur through the active leadership of the industry's trade associations.

The Meat and Poultry Processing Partnership Program is intended to help improve the environmental performance

of meat and poultry processors across the entire industry and, in the case of the external stewardship project, the performance of livestock suppliers as well. This innovative, non-regulatory program has the potential to affect the practices of all 6,000-plus meat and poultry products facilities, thereby fostering environmental improvement among facilities that are excluded from the proposed ELGS standards. In that regard, it is a reflection of EPA's commitment, along with its partners, to achieve continuous performance improvement and environmental stewardship on an industry-wide scale, above and beyond what is intended to be accomplished with this rule.

This voluntary program was not intended, when designed, specifically as a regulatory alternative to the proposed ELGS, but rather as a complement to the proposed standards. Nevertheless, EPA solicits public comment on whether this program would be an adequate replacement for any potential national numeric pretreatment standards and, if so, whether specific program modifications or enhancements should be adopted in response to the issues discussed in this preamble. That determination would be based, in part, on results that are yet to be achieved by the voluntary partnership. EPA and its partners therefore will evaluate and share publicly the environmental results achieved to date, and during the time period preceding promulgation of the final rule, by the meat and poultry processing industry through its participation in this program, to help determine whether this voluntary performance-based approach should be considered a viable alternative to national numeric pretreatment standards. Information is available at *www.SectorStar.org.*

3. Environmental Management Systems (EMSs)

A simple definition of an EMS is ''a continual cycle of planning, implementing, reviewing, and improving the actions an organization takes to meet its environmental obligations.'' These obligations include, but are in no way limited to regulated activities. EMSs are a potentially powerful tool to reduce the range of environmental impacts that may not be amenable to regulation (e.g., odor, noise, energy consumption, or water consumption). In conjunction with reducing environmental impacts, EMSs offer other benefits including cost savings, increased operational efficiency, risk reduction, improved internal communication, and improved relations with external parties.

The use of environmental management systems is increasing throughout the world, especially since the publication of the ISO 14001 International EMS Standard in 1996. ISO standards are developed by an International Body with the goal of establishing standardized product goals. ISO 14001 established a standardized procedure for developing Environmental Management Systems. Approximately 16,000 organizations, including approximately 1,500 organizations in the U.S. have adopted EMSs based on ISO 14001, including certification to the standard through independent third party audits, and the rate of adoption is increasing rapidly. A much larger number of organizations have adopted EMSs consistent with the overall approach embodied in ISO 14001, but tailored to their own particular operations. Implementation of an EMS, while it has the potential to enhance compliance with regulatory requirements, does not expressly constitute or ensure compliance with legal requirements. Compliance assurance, however, is an express public policy and regulatory goal.

In addition, concerns have been expressed that ISO 14001 may not be appropriate for certain industries or certain small and medium-sized organizations. Several industry groups have developed, or are in the process of developing, voluntary programs which use EMSs. These include, but are not limited to, egg production, biosolids management, and water/wastewater utilities. Other industry groups, such as the American Chemical Council (formerly the Chemical Manufacturer's Association), have had similar programs in place for a number of years.

EPA has been involved in strategically promoting the voluntary adoption of EMSs for several years. The Agency's policy in this area was clearly described in our 1999 Report entitled ''Aiming for Excellence''. This report states that ''we will encourage organizations to use EMSs that improve compliance, pollution prevention, and other measures of environmental performance''. Copies of this report are available at *www.epa.gov/reinvent/taskforce/report99.* EPA has also developed an action plan that identifies a wide range of activities the Agency is or expects to undertake to follow up on the recommendations of the Aiming for Excellence Report dealing with EMSs.

Some of the key EMS-based programs EPA is supporting, in partnership with industry and others, are the National Environmental Performance Track (NEPT), the United Egg Producers XL Project, and the National Biosolids Partnership EMS program. As described previously under the Sustainable Industries Programs, EPA is partnering with IWRC and IDNR and five meat and poultry companies to pilot test the ''EMS Guide for the Meat and Poultry Processing Industry.''

Contents of an EMS

The factors described in more detail below would be included in EMSs developed voluntarily under the alternative being considered by the Agency:

Environmental Policy—a written statement of policy, defined by top facility management that includes commitments to: Compliance with both legal requirements and voluntary commitments; pollution prevention, and continual improvement of environmental performance in order to reduce negative impacts on the environment over time; involving the public in an appropriate fashion in EMS development and implementation, and sharing information about environmental performance of the EMS with the community and sharing information about environmental performance of the EMS with the public.

Environmental Planning—identify and document all environmental aspects and impacts of the facility and determine which of these are most significant.

- Document both applicable environmental legal requirements and voluntary commitments.
- Set and document measurable objectives and measurable targets to meet policy commitments and legal requirements and to reduce the facility's significant environmental impacts.
- Describe and document programs to achieve the objectives, targets and commitments in the EMS, including the means and time frames for their completion.

Implementation of Policy and Plan—The following actions provide mechanisms for implementing and maintaining the EMS policy and plan.

- Establish roles and responsibilities for meeting objectives and targets of the overall EMS and compliance with legal requirements, including a top management representative with authority and responsibility for the EMS.
- Define procedures for: (1) Communicating relevant information regarding the EMS, including the facility's environmental performance, throughout the organization; (2) providing appropriate incentives for personnel to meet the EMS requirements; and (3) document and

record control, including where documents related to the EMS will be located and who will maintain them.

• Provide for general environmental training programs for all employees, and specific training for those whose jobs and responsibilities involve activities directly related to achieving objectives and targets and to compliance with legal requirements.

• Establish operation and maintenance programs for equipment and for other operations that are related to legal compliance and other significant environmental aspects.

• Develop a documented emergency preparedness and response program.

Community Involvement/External Communications—The following actions provide mechanisms for incorporating community involvement and external communications.

• Ensure that interested community members and others are given the opportunity to provide input to the facility as it sets objectives and targets in its EMS

• Maintain regular communications with these stakeholders on the performance of the EMS as it is implemented and address relevant issues raised by these stakeholders.

• Report publicly on EMS performance by, for example, making information from self and third party audits available to the public. EPA solicits comment on the most appropriate method of sharing the audit results, including website publication, as well as their content and frequency.

Corrective Action—The following actions provide mechanisms for identifying and correcting operation controls and procedures to ensure EMS effectiveness.

• Adoption of necessary operational controls and procedures to ensure that the EMS is effectively implemented.

• Implementation of an active program for assessing performance and preventing and detecting non-conformance with legal and other requirements (including regulatory compliance) of the EMS

• Maintain records that document EMS implementation and compliance

Management Review—Operators should document management review of performance against the established objectives and targets and the effectiveness of the EMS in meeting policy commitments.

Environmental Management System and Audit Program

As discussed earlier in this proposal, EPA is interested in considering the possible use of EMSs in various aspects of its relationships with the meat and poultry processing industry. EMSs can provide significant internal benefits to organizations such as improved internal communication and better integration of environmental considerations into business decisions. However, EPA is also interested in considering whether EMSs could serve as method of promoting overall environmental accountability to ensure real pollution reductions external. One potential method of ensuring greater accountability and confidence is to include independent third party auditing as a component of an EMS program. Third party auditing is designed to provide facilities with an independent evaluation of their EMSs, based on a particular set of EMS elements or standards.

While third party EMS audits are primarily designed to evaluate the overall suitability of a management *system,* as opposed to particular metrics related to regulatory compliance or environmental performance, they do examine how and if an organization is meeting the environmental objectives it has set for its own operations, including compliance and reduced impacts from unregulated activities.

Therefore, EPA is also considering establishing in the final regulation an option that would allow the meat and poultry products industry to develop an Environmental Management System (EMS) program that would also include independent third party audits by a qualified organization. Indirect dischargers would have the option of meeting potential pretreatment standards or agreeing to participate in the EMS/Audit Program. Third party auditing could substitute for a review by the control authority. Facilities participating in the program would develop EMSs with the elements described above.

Eligibility Criteria

EPA could offer the EMS regulatory alternative to all facilities. Alternatively, EPA could limit the alternative's availability to facilities meeting certain criteria. EPA solicits comment on eligibility criteria for determining whether facilities should be allowed to adopt EMSs in lieu of installing otherwise required wastewater treatment. The purpose of the criteria would be to screen the facilities to ensure they can demonstrate an appropriate compliance history and commitment. For example, EPA could specify in the final rule that if the facility has had a particular type of violation within a certain number of years (e.g., five) the owner/operator would have to demonstrate that the violation was corrected and steps taken to prevent recurrence. EPA may also wish to specify that persons whose compliance history includes certain types of serious violations (e.g., criminal violations) must comply with numeric effluent limits. The regulatory authority may be in the best position to determine at the outset whether a facility's compliance history should exclude it from participation. EPA solicits comments on whether all facilities should be allowed to participate or on other potentially appropriate criteria, as well as on the timing of the screening. EPA also wants to know whether the regulatory authority has the time and resources to research these facilities and whether the need for the review merits the resources required.

Frequency of Third Party Auditing

EPA is considering requiring facilities to complete an initial and follow up audits in the range from each year to every three years, but solicits comment on other frequencies. EPA is also seeking comment on whether a facility's internal audit might substitute for a third party audit in certain years if the previous third party audit indicated that the facility was making good progress on implementing its EMS. EPA also solicits comment on how to define 'making good progress' in such situations. Finally, at some point, each facility would need to complete a full reaudit of its environmental management plan by an independent third party. EPA solicits comment on the frequency of these full reaudits.

Qualifications of Third Party Auditors

For any third party EMS auditing program to be successful, all parties must have confidence in the individuals conducting the audits. Under this proposal, third party auditors could be certified by EPA or another organization as lead auditors under the relevant ISO guidelines with sufficient additional experience in the field of food safety or wastewater management to enable the auditors to, among other things, competently assess facility conformance with objectives and requirements and applicable BMPs. A similar approach is being used in the biosolids industry, where third party auditors must hold credentials as an ISO 14001 lead auditor *and* have a minimum of 5 years experience in biosolids and wastewater management.

Alternatively, EPA could develop a separate set of qualifications for auditors. We are seeking comment on the relevant qualifications for third party auditors and suggestions for existing organizations that might be in

a position to manage an auditing program.

Content of Audit Reports and Sharing of Information

Third party audit information is essential to maintain ongoing communications with the community and other key stakeholders. However, EPA recognizes the burden that providing this information may pose to individual facilities. EPA also recognizes that some of the information in the audit may be considered CBI by the facility. Therefore, we are seeking comment on the most efficient way to make this information available to the public and on what limits if any should be placed on this information. For example, the information could be made available through the web site of the control authority or State regulatory agency, as opposed to requiring the facility to make it available. The content of this information is also an important consideration. EPA proposes to limit the scope of this information to information derived from the EMS audit, including that which relates to the BMPs designed to control pollutants discharged in wastewater, and not necessarily information about all aspects of facility operations. Some of the information that is contained in actual audit reports may be of little interest to the community. In contrast, information that focuses on the areas of strength and needed improvement as a result of the audit may be quite useful. EPA solicits comment on the specific information from audits that should be publicly available as well as the most efficient and effective way of accomplishing this.

Ensuring Auditor Consistency and Integrity

Ensuring that auditors perform their duties in a consistent and objective manner is essential. A May 2001 National Academy of Public Administrators (NAPA) report on third party auditing of EMS under ISO 14001, for example, noted that, given public policy implications, it is important to ensure credible and consistent results so that all who rely on the EMSs, including the public, have appropriate expectations of what it represents (Docket No. W–01–06, Record No. 10041). EPA believes there should be a mechanism for periodically evaluating the effectiveness of the third party audit program and considering appeals to auditor decisions. The Agency solicits comment on how this can best be accomplished and the roles that various parties, including States, should play.

Correction of Nonconformance/Return to Regulatory Coverage

EPA assumes that facilities wishing to take advantage of this alternative will make a good faith effort to successfully implement their environmental management programs. However, some facilities will inevitably experience serious nonconformance, potentially including noncompliance with meeting the goals of the EMS including BMPs to control pollutant discharges. Such problems can range from minor deficiencies with implementation of environmental management programs that have minimal environmental impact and can be easily corrected to serious problems which lead to imminent and substantial endangerments, have significant environmental impacts, or reflect criminal conduct.

EPA's intent is to balance the need to provide facilities with incentives to seek the third party alternative described in this proposal with the need to ensure that regulatory authorities can react promptly and effectively to serious problems that may result in a facility being returned to regulatory coverage. There are a number of options EPA could consider to address this issue. These are not mutually exclusive and include (1) allowing facilities with minor audit nonconformance and/or noncompliance to correct these problems in lieu of returning to regulatory coverage, (2) requiring facilities with major nonconformance and/or noncompliance to address the issue within a specified period of time and have the corrective action reviewed by the auditor or regulatory agency, or (3) requiring that any major noncompliance with the EMS result in a return to regulatory coverage. EPA solicits comment on the best approach or combination of approaches from those listed above or any other approach for addressing nonconformance and noncompliance with regulatory requirements, including, for example, determining who is responsible for noncompliance when there are actual discharges, and when such discharges will be treated as violations of the Clean Water Act. EPA also solicits comment on whether, when, and how related information should be shared with the public.

Reporting and Recordkeeping

To assure compliance with regulatory alternatives to numerical effluent limits, EPA believes it must be able to monitor EMS/EAP implementation and performance. EPA's preferred approach would be to maintain records on-site for 3 years. EPA solicits comment on types of records and reports that might be appropriate for this purpose and where and how long they would be maintained, including their availability to regulators and/or the public.

Best Management Practices

Both the EMS and EAP alternative approaches include commitments to meeting effluent standards through treatment or commitments to implementation of BMPs. EPA has identified several BMPs that are believed to be effective at reducing the pollutant loads discharged in process wastewater from meat and poultry products facilities. Implementation of these BMPs would be a mandatory component of the EAP when it serves as a compliance alternative to potential pretreatment standards. The BMPs that are described below are currently being used at meat and poultry processing facilities and were identified by industry representatives as having the greatest potential to reduce nutrient pollutants from the effluent at meat and poultry processing facilities.

Many of these best management practices simply prevent raw materials or by-products from coming in contact with wastewater, thus reducing the pollutant load which reaches the water stream. All meat and poultry processing and rendering facilities must use water to clean their equipment and facilities to maintain a clean, hygienic environment and keep food safe from bacterial contamination. Prior to the disinfecting water cleaning, collecting as much of the solid by-products that may have accumulated around work areas will reduce the pollutants that reach water. Many of these by-products have value as rendered product and, thus, should not become a solid waste requiring disposal to land.

EPA believes that preventing solid raw materials and byproducts such as offal from entering the wastewater stream has the potential to greatly reduce the loading of nitrogen that is discharged from meat and poultry products facilities. The nitrogen is still in organic form and does not have the opportunity to begin the biochemical breakdown that occurs in wastewater which releases ammonia. Once the nitrogen has been converted to ammonia it is much more difficult to remove from the wastewater stream. Likewise phosphorus loadings in wastewater should also be reduced when solid materials are kept out of the wastewater.

The implementation of some of the BMPs described herein may require reconfiguring equipment or work areas within the facility to facilitate dry clean-

up methods. These reconfigurations can probably be done over time as there will be some trade-off between labor requirements necessary to conduct the dry clean-up in the more difficult areas and the costs associated with retrofitting these areas with equipment that facilitates this dry clean-up. However, as a compliance alternative to potential pretreatment standards, the regulation would specify that the facility operator must be able to demonstrate implementation of the required BMPs in order to be eligible for this EAP alternative.

Some of the BMPs identified by EPA are specific to a particular aspect of the production, such as slaughtering. Slaughtering facilities can accomplish reductions in the nutrient pollutants discharged by maximizing blood collection and using dry clean-up techniques prior to sanitation. Dry collection and handling of other offal and by-products are also effective practices. Some meat and poultry processing facilities use water to transport offal and other by-products away from the processing area either to the on-site rendering facility or to trucks for transport to an off-site renderer. This can result in loss of these by-products when the material is separated from the wastewater and promote chemical break down of these by-products which converts organic nitrogen to water soluble ammonia.

Manure management can also be a consideration at slaughter facilities. Facilities should ensure that manure is properly handled and when possible handled as a solid waste rather than adding it to the facilities wastewater stream. Practices would include dry cleaning of pens and trucks prior to wet cleaning and sanitizing. In addition, there may be pollution prevention practices that can be implemented in association with manure management involving removing the animals from feed at some point prior to shipping them to the slaughterhouse.

Facilities that do not slaughter animals, but do further processing of meat and poultry products should also maximize the use of dry collection and cleaning of the facilities prior to sanitation. There are also concerns with some of the specific processes such as pickling, spicing and marinating which are used to make meat and poultry products. These processes involve preparing a solution containing salts, sugars, phosphates and nitrites among other things. These solutions should be managed to minimize waste and loss. Some of the practices that EPA is considering include using multiple, smaller batches of these solutions to reduce the volume and pollutant loads when a batch requires disposal. These practices include collection, screening, and reuse of spent pickle from injection or tumbler machines. EPA is also considering ways that the product could be removed and packaged following this process in such a way as to minimize the loss of the solution. Facilities would also be asked to develop a protocol for determining when a solution requires disposal to maximize the usefulness of these solutions and reduce the overall volume disposed. Facilities should also examine and maintain the equipment used in these processes to minimize spills and leaks.

Finally, specific best management practices that are being considered for the rendering sector include managing the raw materials to prevent leaks and spills especially for materials that may be entering the rendering facility as a liquid such as blood or oil and grease. Losses of rendered product following the cooking process should be avoided by providing and maintaining traps in the cooking vapor lines and controlling pressure reduction and agitation after cooking.

All meat and poultry products facilities should minimize water usage and employ water conservation practices including installing operator controlled nozzles on hoses and other sources of water. Facilities should also examine the chemicals used to sanitize equipment. Whenever possible the use of sanitizers containing phosphorus should be avoided.

EPA will continue to evaluate these management practices and work with stakeholders to identify measures, monitoring or recordkeeping that EPA could use to ensure the proper implementation of these BMPs. EPA expects to fully describe these measures in a subsequent notice and seek public comment on them.

Assessment of Alternatives

To assess the extent to which an EMS or an EAP alternative can achieve comparable pollutant reduction performance as the end-of-pipe effluent standard, EPA needs data which document the pollutant reductions achieved by implementing the BMPs. The specific performance data that EPA is seeking includes effluent concentrations taken from wastewater discharges prior to and after implementing the BMPs for nutrient pollutants. The nutrient pollutants should be analyzed using EPA's approved methods, found at 40 CFR part 136 for Total Kjeldahl Nitrogen (TKN), Ammonia, Nitrates, Dissolved Phosphorus and Total Phosphorus. EPA also solicits concentration information on Hexane Extractable Material which measures oil and grease (HEM method for oil and grease), 5-day Biochemical Oxygen Demand (BOD_5), Biochemical Oxygen Demand and Total Suspended Solids (TSS). In addition to the concentration information, EPA needs to know the production practices, the wastewater flow and production rates associated with the concentration measurements. The longer the time period during which data is collected both before and after implementation of BMPs the more helpful the data will be to EPA.

EPA will also need to evaluate the costs associated with implementing the BMPs and the EMS or EAP to determine whether they are comparable to costs estimated for compliance with today's wastewater treatment that are being considered for possible pretreatment standards. EPA encourages the industry and the public to provide information on the costs associated with implementing an EMS or EAP, including costs to hire consultants and staff time necessary to develop and implement an EMS or EAP. EPA has included some cost and estimates of labor requirements for the implementation of EMS that were provided to EPA and reflect the implementation of EMSs to manage biosolids. EPA is also interested in data that documents materials necessary to implement the BMPs. Facilities are asked to also provide data which documents cost savings such as reduced water usage resulting in lower water bills.

EPA would also welcome any data on the actual performance of EMSs. This could include data that demonstrates other environmental benefits associated with implementing EMSs or EAPs such as reductions in energy or water usage, improvements in food safety or reductions in odor or air emissions, or data on EMS limitations. EPA is also interested in knowing about other BMPs that would be as effective as those identified in today's notice.

In summary, EPA is soliciting comment on a variety of alternative approaches that can be implemented in the meat and poultry products industry to beneficially affect industry-wide and facility performance and measure results. Through the Sustainable Industries Program, stakeholders will identify and test the best methodologies and approaches to collecting information and data to measure environmental results of various voluntary concepts (i.e. BMP's, EAP's and EMS). This effort will begin during the initial period immediately following

proposal of this regulation. The results and an evaluation of various alternative approaches will be included in a subsequent Notice of Data Availability (NODA), which will also describe in detail an alternative approach and solicit comment.

XII. Regulatory Implementation

A. Implementation of Part 432 Through the NPDES Permit Program and the National Pretreatment Program

Under sections 301, 304, 306 and 307 of the CWA, EPA promulgates national effluent limitations guidelines and standards of performance for major industrial categories for three classes of pollutants: (1) Conventional pollutants (i.e., total suspended solids, oil and grease, biochemical oxygen demand, fecal coliform, and pH); (2) toxic pollutants (e.g., toxic metals such as chromium, lead, nickel, and zinc; toxic organic pollutants such as benzene, benzo-a-pyrene, and naphthalene); and (3) non-conventional pollutants (e.g., ammonia-N, fluoride, iron, total phenols, and 2,3,7,8–tetrachlorodibenzofuran).

As discussed in Section II, EPA considers development of six types of effluent limitations guidelines and standards for each major industrial category, as appropriate:

Abbreviation/Effluent Limitation Guideline or Standard

BPT—Best Practicable Control Technology Currently Available
BAT—Best Available Technology Economically Achievable
BCT—Best Control Technology for Conventional Pollutants
NSPS—New Source Performance Standards
PSES—Pretreatment Standards for Existing Sources
PSNS—Pretreatment Standards for New Sources

Pretreatment standards apply to industrial facilities with wastewater discharges to POTWs. The effluent limitations guidelines and new source performance standards apply to industrial facilities with direct discharges to navigable waters.

1. NPDES Permit Program

Section 402 of the CWA establishes the National Pollutant Discharge Elimination System (NPDES) permit program. The NPDES permit program is designed to limit the discharge of pollutants into navigable waters of the United States through a combination of various requirements including technology-based and water quality-based effluent limitations. This proposed regulation contains the technology-based effluent limitations guidelines and standards applicable to the meat and poultry processing industry to be used by permit writers to derive NPDES permit technology-based effluent limitations. Water quality-based effluent limitations (WQBELs) are based on receiving water characteristics and ambient water quality standards, including designated water uses. They are derived independently from the technology-based effluent limitations set out in this proposed regulation. The CWA requires that NPDES permits must contain for a given discharge, the more stringent of the applicable technology-based and water quality-based effluent limitations.

Section 402(a)(1) of the CWA provides that in the absence of promulgated effluent limitations guidelines or standards, the Administrator, or her designee, may establish technology-based effluent limitations for specific dischargers on a case-by-case basis. Federal NPDES permit regulations provide that these limits may be established using ''best professional judgment'' (BPJ) taking into account any proposed effluent limitations guidelines and standards and other relevant scientific, technical and economic information.

Section 301 of the CWA, as amended by the Water Quality Act of 1987, requires that BAT effluent limitations for toxic pollutants are to have been achieved as expeditiously as possible, but not later than three years from date of promulgation of such limitations and in no case later than March 31, 1989. See 301(b)(2). Because the proposed revisions to 40 CFR part 432 will be promulgated after March 31, 1989, NPDES permit effluent limitations based on the revised effluent limitations guidelines must be included in the next NPDES permit issued after promulgation of the regulation and the permit must require immediate compliance.

2. New Source Performance Standards

New sources must comply with the new source performance standards and limitations of the MPP rule (once it is finalized) at the time they commence discharging MPP process wastewater. Because the final rule is not expected within 120 days of the proposed rule, the Agency considers a discharger a new source if construction of the source begins after promulgation of the final rule (40 CFR 122.2; 40 CFR 403.3). EPA expects to take final action on this proposal in December 2003.

However, the currently codified NSPS continue to have force and effect for a limited universe of new sources. Specifically, following promulgation of any revised NSPS, the existing NSPS would continue to apply for a limited period of time to new sources that commenced discharging MPP process wastewater within the time period beginning ten years before the effective date of a final rule revising part 432. Thus, if EPA promulgates revised NSPS for part 432 in December 2003, and those regulations take effect in January 2004, any direct discharging new source that commenced discharge after January 1994 but before February 2004 would be subject to the currently codified NSPS for ten years from the date it commenced discharge or during the period of depreciation or amortization of such facility, whichever comes first. See CWA section 306(d). After that ten year period expires, any new or revised BAT limitations would apply with respect to toxics and nonconventional pollutants. Limitations on conventional pollutants would be based on the current NSPS for conventional pollutants unless EPA promulgates revisions to BPT/BCT for conventional pollutants that are more stringent than these NSPS requirements. EPA is reproducing in the MPP Development Document the NSPS codified in the 2001 edition of the Code of Federal Regulations for use during the applicable ten-year period.

3. National Pretreatment Standards

40 CFR Part 403 sets out national pretreatment standards which have three principal objectives: (1) To prevent the introduction of pollutants into publicly owned treatment works (POTWs) that will interfere with POTW operations, including use or disposal of municipal sludge; (2) to prevent the introduction of pollutants into POTWs which will pass through the treatment works or will otherwise be incompatible with the treatment works; and (3) to improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

The national pretreatment and categorical standards comprise a series of prohibited discharges to prevent the discharge of ''any pollutant(s) which cause Pass Through or Interference.'' (*see* 40 CFR 403.5(a)(1)) Local control authorities are required to implement the national pretreatment program including application of the federal categorical pretreatment standards to their industrial users that are subject to such categorical pretreatment standards, as well as any pretreatment standards derived locally (i.e., local limits) that are more restrictive than the federal standards. This proposed regulation

does not revise federal categorical pretreatment standards (PSES and PSNS) applicable to meat and poultry processing facilities regulated by 40 CFR part 432.

The federal categorical pretreatment standards for existing sources must be achieved not later than three years following the date of publication of the final standards. If EPA were to promulgate PSNS in the final rule, MPP new sources would be required to comply with the new source performance standards of the MPP rule (once it is finalized) at the time they commence discharging MPP process wastewater. Because the final rule is not expected within 120 days of the proposed rule, the Agency considers an indirect discharger a new source if its construction commences following promulgation of the final rule (40 CFR 122.2; 40 CFR 403.3). EPA expects to take final action on this proposal in December 2003.

In addition, § 403.7 of the Clean Water Act provides the criteria and procedures to be used by a Control Authority to grant a categorical industrial user (CIU) variance from a pollutant limit specified in a categorical pretreatment standard to reflect removal by the POTW treatment plant of the pollutant. Procedures for granting removal credits are specified in 40 CFR 403.11.

B. Upset and Bypass Provisions

A ''bypass'' is an intentional diversion of the streams from any portion of a treatment facility. An ''upset'' is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. EPA's regulations concerning bypasses and upsets for direct dischargers are set forth at 40 CFR 122.41(m) and (n) and for indirect dischargers at 40 CFR 403.16 and 403.17.

C. Variances and Modifications

The CWA requires application of effluent limitations established pursuant to section 301 or pretreatment standards of section 307 to all direct and indirect dischargers. However, the statute provides for the modification of these national requirements in a limited number of circumstances. Moreover, the Agency has established administrative mechanisms to provide an opportunity for relief from the application of the national effluent limitations guidelines and pretreatment standards for categories of existing sources for toxic, conventional, and nonconventional pollutants.

1. Fundamentally Different Factors Variances

EPA will develop effluent limitations or standards different from the otherwise applicable requirements if an individual discharging facility is fundamentally different with respect to factors considered in establishing the limitation of standards applicable to the individual facility. Such a modification is known as a ''fundamentally different factors'' (FDF) variance.

Early on, EPA, by regulation provided for the FDF modifications from the BPT effluent limitations, BAT limitations for toxic and nonconventional pollutants and BPT limitations for conventional pollutants for direct dischargers. For indirect dischargers, EPA provide for modifications from pretreatment standards. FDF variances for toxic pollutants were challenged judicially and ultimately sustained by the Supreme Court. (*Chemical Manufacturers Assn* v. *NRDC,* 479 U.S. 116 (1985)).

Subsequently, in the Water Quality Act of 1987, Congress added new section 301(n) of the Act explicitly to authorize modifications of the otherwise applicable BAT effluent limitations or categorical pretreatment standards for existing sources if a facility is fundamentally different with respect to the factors specified in section 304 (other than costs) from those considered by EPA in establishing the effluent limitations or pretreatment standard. Section 301(n) also defined the conditions under which EPA may establish alternative requirements. Under Section 301(n), an application for approval of a FDF variance must be based solely on (1) information submitted during rulemaking raising the factors that are fundamentally different or (2) information the applicant did not have an opportunity to submit. The alternate limitation or standard must be no less stringent than justified by the difference and must not result in markedly more adverse non-water quality environmental impacts than the national limitation or standard.

EPA regulations at 40 CFR part 125, subpart D, authorizing the Regional Administrators to establish alternative limitations and standards, further detail the substantive criteria used to evaluate FDF variance requests for direct dischargers. Thus, 40 CFR 125.31(d) identifies six factors (*e.g.,* volume of process wastewater, age and size of a discharger's facility) that may be considered in determining if a facility is fundamentally different. The Agency must determine whether, on the basis of one or more of these factors, the facility in question is fundamentally different from the facilities and factors considered by EPA in developing the nationally applicable effluent guidelines. The regulation also lists four other factors (*e.g.,* infeasibility of installation within the time allowed or a discharger's ability to pay) that may not provide a basis for an FDF variance. In addition, under 40 CFR 125.31(b) (3), a request for limitations less stringent than the national limitation may be approved only if compliance with the national limitations would result in either (a) a removal cost wholly out of proportion to the removal cost considered during development of the national limitations, or (b) a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits. EPA regulations provide for an FDF variance for indirect dischargers at 40 CFR 403.13. The conditions for approval of a request to modify applicable pretreatment standards and factors considered are the same as those for direct dischargers.

The legislative history of section 301(n) underscores the necessity for the FDF variance applicant to establish eligibility for the variance. EPA's regulations at 40 CFR 125.32(b)(1) are explicit in imposing this burden upon the applicant. The applicant must show that the factors relating to the discharge controlled by the applicant's permit which are claimed to be fundamentally different are, in fact, fundamentally different from those factors considered by EPA in establishing the applicable guidelines. The criteria for applying for and evaluating applications for variances from categorical pretreatment standards are included in the pretreatment regulations at 40 CFR 403.13(h)(9). An FDF variance is not available to a new source performance subject to NSPS or PSNS.

2. Economic Variances

Section 301(c) of the CWA authorizes a variance from the otherwise applicable BAT effluent guidelines for nonconventional pollutants due to economic factors. The request for a variance from effluent limitations developed from BAT guidelines must normally be filed by the discharger during the public notice period for the draft permit. Other filing time periods may apply, as specified in 40 CFR 122.21(1)(2). Specific guidance for this type of variance is available from EPA's Office of Wastewater Management.

3. Water Quality Variances

Section 301(g) of the CWA authorizes a variance from BAT effluent guidelines for certain nonconventional pollutants due to localized environmental factors. These pollutants include ammonia, chlorine, color, iron, and total phenols.

D. Production Basis for Calculation of Permit Limitations

1. Background

The effluent limitations guidelines and standards for BPT, BAT, and NSPS proposed today are expressed as mass limitations in pounds (of pollutant) per 1000 pounds (of production unit). EPA is soliciting comment on PSES and PSNS numeric standards that are concentration-based. The NPDES regulations (40 CFR 122.45(f)) require permit writers to implement mass-based limitations for direct dischargers, but allows an exception when the limits are expressed in terms of other units of measurement (*e.g.,* concentration) and the General Pretreatment Standards (40 CFR 403.6(d)) provide that the control authority may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment requirements or where mass limitations are appropriate. EPA believes that MPP facilities that have been using the best pollution prevention and water conservation practices may also request that the permit writer or POTW use mass-based limits in their permits or control mechanism. The Agency is providing detailed information on water use levels for specific unit operations in Section 6 of the MPP Development Document for today's proposal. EPA believes this information will be useful to permit writers and control authorities in those instances where they deem it appropriate to set mass-based limits.

2. Mass-Based Limitations and Standards

The effluent limitations guidelines and standards for BPT, BAT, and NSPS proposed today are expressed as mass limitations in pounds (of pollutant) per 1000 pounds (of production unit). Production units include Live Weight Killed (LWK), Equivalent Live Weight Killed (ELWK), Finished Product (FP) and Raw Material (RM). The mass limitation is derived by multiplying an effluent concentration (determined from the analysis of treatment system performance) by an appropriate wastewater volume (''production-normalized flow'') determined for each MPP operation expressed in gallons/1000 pounds of product. EPA developed the production normalized flows used to develop the limits in the proposed rule from survey questionnaire responses from MPP facilities. (The production-normalized flows are provided in Section VI.A.)

A facility subject to today's proposed regulation can use a combination of various treatment alternatives and/or water conservation practices to achieve a particular effluent limitation or standard. The model treatment systems (see Section XI) illustrate at least one means available to achieve the proposed effluent limitations guidelines and standards.

As discussed above in Section XII.D.1, both the NPDES permit regulations and the General Pretreatment Regulations discuss the use of mass-based limitations and standards. In order to convert the proposed effluent limitations and standards expressed as pounds/1,000 pounds of product to a monthly average or daily maximum permit limit, the permitting or control authority would use a production rate with units of 1,000 pounds/day. The NPDES permit regulations (40 CFR 122.45(b)(2)) require that NPDES permit limits be based on a ''* * * reasonable measure of actual production.'' A similar requirement is found in the General Pretreatment regulations (40 CFR 403.6(c)(3)). The production rates used for NPDES permitting for the MPP industry have commonly been the highest annual average production from the prior five year period prorated to a daily basis.

The objective in determining a production estimate for a facility is to develop a measure of production which can reasonably be expected to prevail during the next term of the permit. This is used in combination with the production-based limitations to establish a maximum mass of pollutant that may be discharged each day and month. However, if the permit production rate is based on the maximum month, then the permit could allow excessive discharges of pollutants during significant portions of the life of the permit. These excessive allowances may discourage facilities from ensuring optimal waste management, water conservation, and wastewater treatment practices during lower production periods. On the other hand, if the average permit production rate is based on an average derived from the highest year of production over the past five years, then facilities may have trouble ensuring that their waste management, water conservation, and wastewater treatment practices can accommodate shorter periods of higher production. This might require facilities to target a more stringent treatment level than that on which the limits were based during these periods of high production. To accomplish this, facilities would likely have to develop more efficient treatment systems and better water conservation and waste management practices during these periods. The Agency solicits comments on related costs and any technical difficulties that meat and poultry processing facilities might have in meeting limits during short periods of high production. EPA also solicits other options for consideration.

The proposed limitations neither require the installation of any specific control technology nor the attainment of any specific flow rate or effluent concentration. A facility subject to today's proposed regulation can use various treatment alternatives or water conservation practices to achieve a particular effluent limitation or standard. The model treatment systems described here illustrate at least one means available to achieve the proposed effluent limitations guidelines and standards.

E. Best Management Practices

Sections 304(e), 308(a), 402(a), and 501(a) of the CWA authorize the Administrator to prescribe BMPs as part of effluent limitations guidelines and standards or as part of a permit. EPA's BMP regulations are found at 40 CFR 122.44(k). Section 304(e) of the CWA authorizes EPA to include BMPs in effluent limitations guidelines for certain toxic or hazardous pollutants for the purpose of controlling ''plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage.'' Section 402(a)(1) and NPDES regulations (40 CFR 122.44(k)) also provide for best management practices to control or abate the discharge of pollutants when numeric limitations and standards are infeasible. In addition, Section 402(a)(2), read in concert with Section 501(a), authorizes EPA to prescribe as wide a range of permit conditions as the Administrator deems appropriate in order to ensure compliance with applicable effluent limitations and standards and such other requirements as the Administrator deems appropriate.

Dikes, curbs, and other control measures are being used at some MPP facilities to contain leaks and spills as part of good ''housekeeping'' practices.'' However, on a facility-by-facility basis a permit writer may choose to incorporate BMPs into the permit. See MPP Development Document for this proposed rule for a detailed discussion of pollution prevention and best management practices used in the MPP industry.

As described elsewhere in today's notice, EPA is considering an alternative to potential numeric pretreatment limitations and standards that would involve implementing BMPs as part of an Environmental Management System (EMS) (*see* Section XI.B).

XIII. Administrative Requirements

A. Executive Order 12866: ''Regulatory Planning and Review''

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

It has been determined that this proposed rule is a ''significant regulatory action'' under the terms of Executive Order 12866. 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.

B. Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business based on full time employees (FTEs) or annual revenues established by SBA; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

The definitions of small business for the meat products industries are in SBA's regulations at 13 CFR 121.201. These size standards were updated effective October 1, 2000. SBA size standards for the meat and poultry products industry (that is, for NAICS codes 311611, 311612, 311613, and 311615) define a ''small business'' as one which has 500 or fewer employees.

EPA estimates that small businesses own 71 facilities out of 246 facilities that would be regulated under the rule as proposed. EPA based this estimate on information from the screener survey and SBA as described in Section VIII.M. EPA assumes that it is unlikely that any small company owns more than one facility. EPA has fully evaluated the economic impact of the proposed rule on the affected small companies. None of the facilities owned by small companies have a cost/sales ratio greater than one percent. For this proposal, EPA is using the ratio of annualized compliance costs to net income as its central measure of economic achievability (see Section VIII.E for a definition of this measure). EPA estimates that, based on its model facilities, 38 of the 71 facilities owned by small companies have cost/net income ratios between five and nine percent, eight facilities have cost/net income ratios between two and three percent, while the other 25 facilities owned by small companies have cost/net income ratios less than one percent. EPA also calculated the ratio of cost to sales as a supplement to the cost/net income ratio. (More detail on these estimates is provided in the EA.) After considering the economic impact of today's proposed rule on small entities, including consideration of alternative regulatory approaches being proposed, I certify that this action will not have significant economic impact on a substantial number of small entities.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. EPA is not proposing any new requirements on 5411 (or the vast majority of) facilities. Most of these are owned by small businesses and many of the smallest could likely experience serious economic impacts if requirements were imposed. EPA considered regulating an additional subset of this group of 5411 facilities, the 731 largest indirect discharging facilities, 462 of which are owned by small businesses. If the costs of Option 1 for PSES standards were imposed on these facilities, EPA estimates that 235 of the 462 facilities owned by small companies would have a cost/net income ratio between one and two percent while the other 227 facilities owned by small companies would have a cost/net income ratio of less than one percent. Thus, even if EPA had proposed Option 1 PSES standards for indirect dischargers the combined proposal would not have had a significant impact on a substantial number of small entities.

EPA has held several teleconferences with representatives of the American Association of Meat Processors (AAMP) which has almost a third of its association members with less than 10 FTE at the company level. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, 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 one year.

Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative, if the Administrator publishes with the final rule an explanation 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.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The total annual cost of this rule is estimated to be $80 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. The facilities which are affected by today's proposal are direct dischargers engaged in the slaughtering or processing of meat and poultry and the rendering of by-products resulting from these activities. These facilities would be subject to today's proposed requirements through the issuance or renewal of an NPDES permit either from the Federal EPA or authorized State governments. These facilities should already have NPDES permits as the Clean Water Act requires a permit be held by any point source discharger before that facility may discharge wastewater pollutants into surface waters. Therefore, today's proposal could require these permits to be revised to comply with revised federal standards, but should not require a new permit program be implemented.

EPA is not proposing to establish pretreatment standards for this point source category which are applied to indirect dischargers and overseen by Control Authorities. Local governments are frequently the Control Authority but since this regulation proposes no pretreatment standards, there would be no impact imposed on local governments. Thus, today's rule is not subject to the requirements of section 203 of UMRA.

D. Executive Order 13045: ''Protection of Children From Environmental Health Risks and Safety Risks''

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 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 and safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to E.O. 13045 because it is not economically significant under E.O. 12866, nor does it concern an environmental health or safety risk that may have a disproportionate effect on children.

E. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

EPA has compared 492 tribal zip codes obtained from EPA's America Indian Environmental Office (AIEO) to the 5,270 zip codes from EPA's Hazard Analysis and Critical Control Points (HACCP) database. EPA identified approximately 64 MPP facilities located in 36 tribal zip codes. Of these 64 MPP facilities, 50 are classified as very small (<10 employees), 13 as small (10–499 employees), and only one facility as large (≥500 employees). EPA expects the proposed rule would not affect any of the very small facilities. It would only cover some of the facilities employing 10 to 499 employees and the one facility employing greater than or equal to 500 employees. (EPA cannot determine from the HACCP database which of these facilities are indirect dischargers and which are direct dischargers, although the large majority of these facilities are indirect dischargers.)

F. Paperwork Reduction Act

This proposed rule contains no new information collection requirements. Therefore, this rule is not subject to the Paperwork Reduction Act. OMB has previously approved information collection requirements for CWA direct dischargers to comply with their NPDES permits and for indirect dischargers to comply with pretreatment requirements. Burden estimates for direct dischargers to comply with this rule are contained in the ''National Pollutant Discharge Elimination System (NPDES)/ Compliance Assessment/Certification Information'' ICR (OMB control no. 2040–0110). Burden estimates for indirect discharging facilities to comply with 40 CFR Part 403 are included in the ''National Pretreatment Program (40 CFR part 403)'' ICR (OMB control no. 2040–0009).

Copies of the ICR document(s) may be obtained from Sandy Farmer, by mail at the Office of Environmental Information, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460, by e-mail at *farmer.sandy@epa.gov,* or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr.* Include the ICR and /or OMB number in any correspondence.

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.

However, should EPA proceed with the Regulatory Alternative for indirect dischargers there could be new information collection requirements. The Agency will develop an Information Collection Request seeking clearance for any additional information collection requirements when we have fully evaluated and developed this alternative.

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.

G. Executive Order 13132: ''Federalism''

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have Federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. EPA estimates that, when promulgated, these revised effluent guidelines and standards will be incorporated into NPDES permits without any additional costs to authorized States.

Further, the revised regulations would not alter the basic State-Federal scheme established in the Clean Water Act under which EPA authorizes States to carry out the NPDES permitting program. EPA expects the revised regulations to have little effect, if any, on the relationship between, or the distribution of power and responsibilities among, the Federal, State and local governments. Thus, Executive Order 13132 does not apply to this rule.

H. Executive Order 12898: ''Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations''

The requirements of the Environmental Justice Executive Order are that EPA will review the environmental effects of major Federal actions significantly affecting the quality of the human environment. For such actions, EPA reviewers will focus on the spatial distribution of human health, social and economic effects to ensure that agency decision makers are aware of the extent to which those impacts fall disproportionately on covered communities.'' This is not a major action. Further, EPA does not believe this rulemaking will have a disproportionate effect on minority or low income communities because the technology-based effluent limitations guidelines are uniformly applied nationally irrespective of geographic location. The proposed regulation will reduce the negative effects of meat and poultry products industry waste in our nation's waters to benefit all of society, including minority and low-income communities. The cost impacts of the rule should likewise not disproportionately affect low-income communities given the relatively low economic impacts of the rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub L. 104–113 Sec. 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 standard bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (OMB), explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. The proposed rule requires certain facilities that produce meat or poultry products to monitor for fecal coliform, COD, BOD_5, TSS, oil & grease, ammonia, total phosphorus, and total nitrogen (sum of nitrate/nitrite and Total Kjeldahl Nitrogen (TKN)). EPA performed a search to identify potentially voluntary consensus standards that could be used to measure the parameters in today's proposed guideline. EPA's search revealed that consensus standards for these paramenters exist and are already specified in the tables at 40 CFR 136.3. In addition, EPA is proposing to add a voluntary consensus standard (Method 300.0) for measuring nitrate/nitrite. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

J. Executive Order 13211: ''Energy Effects''

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. As part of the Agency's consideration of Non-Water Quality Impacts, EPA has estimated the energy consumption associated with today's proposed requirements. EPA estimates that meat and poultry processing facilities will decrease their energy consumption by 144 million KWH/yr which is approximately 6 percent of current energy used by this industrial sector. The decrease is associated with the proposed BAT technologies for the poultry and meat subcategories, which would result in treatment to remove nitrogen prior to discharge. Denitrification, following nitrification, which most direct discharging facilities currently have in place, will reduce energy usage. To remove the nitrates and nitrites generated by nitrifying ammonia, a typical facility is likely to use the oxygen attached to the nitrogen compounds to further break down the BOD, which means that the facility can actually reduce the need to add oxygen to the system through aeration of the wastewater. Shutting off the aeration equipment will reduce the energy used in operating the treatment system. EPA estimates that there will be no change in the energy requirements to operate the treatment system for the rendering subcategory as a result of today's proposed rule as the proposed rule does not change the technology basis (nitrification) for rendering facilities. See Section X.A of today's notice for more discussion of how these energy usages were determined. Therefore, we have concluded that this rule is not likely to have any adverse energy effects.

K. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. We invite your comments on how to make this proposed rule easier to understand. For example, have we organized the material to suit your needs? Are the requirements in the rule clearly stated? Does the rule contain technical language or jargon that is not clear? Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? Would more (but shorter) sections be better? Could we improve clarity by adding tables, lists, or diagrams? What else could we do to make the rule easier to understand?

XIV. Solicitation of Data and Comments

A. General and Specific Comment Solicitation

EPA solicits comments on various issues specifically identified in the preamble as well as any other issues that are not specifically addressed in today's notice. Specifically, EPA solicits information, data, and comment on the following topics:

- Additional information and data on the performance and associated costs of all wastewater treatment technologies currently or potentially capable of treating MPP wastewaters;
- EPA's intended use of data (e.g, monitoring data) to perform a ''real-world'' check on the achievability of the limitations and standards;
- The potential of MPP facilities to reduce water consumption and new technologies or practices that can effectively reuse water;
- Description of all types of flocculants or treatment aids used in MPP WWTP and their concentrations that are commonly not accepted by independent renderers;
- Differences in production and wastewater generation and characteristics between non-religious and religious meat and poultry facilities;
- Whether EPA should approve the use of Method 300.0 for the meat and poultry industry;
- EPA's notation for oil and grease limitations and standards in the proposed rule;
- Whether EPA should regulate total residual chlorine;
- EPA's methodology for determining LTAs and variability factors used in this proposal;
- Need for a different monthly average limitations for small and non-small facilities;
- Whether EPA should set more stringent standards for either direct or indirect new sources;
- Additional methods for estimating and monetizing benefits associated with the proposed rule;
- The economic analysis in this proposal and the methods it is considering for subsequent analyses, particularly the use of cash flow as a measure of resources available to finance environmental compliance and suggestions for alternative methodologies;
- Whether TDS limitations and standards are necessary and which industry subcategories (if any) should be subject to these potential limitations and standards;
- Additional data and information related to instances of MPP indirect dischargers causing POTW interference or pass through (*see* Section XI.B);
- Information on whether or not EPA should regulate indirect dischargers (*see* Section XI.B);
- Additional data and information related to MPP facilities implementing EMSs or BMPs (*see* Section XI.F);
- Information on whether or not EPA should establish regulatory alternatives to potential pretreatment standards for indirect dischargers (*see* Section XI.F).
- Additional data and information on exotic and other meat and poultry product facilities (e.g., horse, goats, elk, deer, buffalo, ostriches, quail, pheasants, rabbits, and other small game). EPA is soliciting additional data and information on the industry profile for these meat and poultry product facilities including type of operations, annual production, number of employees per facility, typical wastewater characteristics, typical methods of wastewater management and treatment.

B. Regulatory Alternative to Potential Numerical Pretreatment Standards

EPA is describing a regulatory alternative to numerical pretreatment standards which would require meat and poultry products facilities to implement specific BMPs as part of a facility-wide Environmental Management System. See Section XI.F for the discussion of this regulatory alternative. EPA solicits comments on this alternative. Would it be a protective of the environment? Would meat and poultry products facilities choose this regulatory alternative?

EPA is also seeking data and information on the costs and burdens and even cost savings associated with implementing an EMS and the specific BMPs. Environmental improvements associated with implementing the BMPs, expressed in terms of pollutant reductions in wastewater discharges and other environmental improvements associated with the implementation of an EMS.

EPA solicits comments on the establishment of pretreatment standards for oil & grease on the basis of interferences of POTW performance. As discussed in Section XI.B, EPA has identified a number of instances where the discharge of untreated meat and poultry products wastewater has led to interference with a POTW treatment system.

XV. Guidelines for Submission of Analytical Data

EPA requests that commenters to today's proposed rule submit analytical, flow, and production data to supplement data collected by the Agency during the regulatory development process. To ensure that commenter data may be effectively evaluated by the Agency, EPA has developed the following guidelines for submission of data.

A. Types of Data Requested

EPA requests paired influent and effluent treatment data for each of the technologies identified in the technology options (*see* Section VII.A) as well as any additional technologies applicable to the treatment of MPP wastewater. EPA prefers paired influent and effluent treatment data, but also solicits unpaired data as well. Data from systems treating only non-process MPP wastewater (e.g., sanitary wastewater or non-contact cooling water) will not be evaluated by EPA.

For the systems treating MPP process wastewater, EPA requests paired influent and effluent treatment data from 24-hour composite samples of flowing wastewater streams (except for analyses requiring grab samples, such as oil and grease). This includes end-of-pipe treatment technologies and in-process treatment, recycling, or water reuse. Submission of effluent data alone is acceptable, but the commenters should provide evidence that the influent concentrations contain treatable levels of the pollutants. If commenters sample their wastewaters to respond to this proposal, EPA encourages them to sample both the influent and effluent wastestreams.

EPA prefers that the data be submitted in an electronic format. In addition to providing the measurement of the pollutant in each sample, EPA requests that sites provide the detection limit (rather than specifying zero or 'ND') if the pollutant is non-detected in the wastestream. Each measurement should be identified with a sample collection date, the sampling point location, and the flow rate at that location. For each sample or pollutant, EPA requests that the chemical analytical method be identified.

In support of the treatment data, commenters should submit the following items if they are available: A process diagram of the treatment system that includes the sampling point locations; treatment chemical addition rates; laboratory reports; influent and effluent flow rates for each treatment unit during the sampling period; production in each subcategory (daily values are preferred, but either production or estimated production during the sampling period are also acceptable); sludge or waste oil generation rates; a brief discussion of the treatment technology sampled; and a list of MPP operations contributing to

the sampled wastestream. If available, information on capital cost, annual (operation and maintenance) cost, and treatment capacity should be included for each treatment unit within the system.

B. Analytes Requested

EPA considered metal, organic, conventional, and other nonconventional pollutant parameters for regulation. Based on analytical data collected, EPA initially identified 30 pollutants of concern for the meat processing segment of the industry and 27 pollutants of concern for the poultry processing segment of the industry (*see* Section VII.C and MPP Development Document). The Agency requests analytical data for any of the pollutants of concern and for any other pollutant parameters that commentors believe are of concern in the MPP industry. Of particular interest are BOD_5, TSS, Ammonia as Nitrogen, and pH data. Commentors should use the methods listed in Table XV.C–1 or equivalent methods (generally, those approved at 40 CFR 136 for compliance monitoring), and should document the method used for all data submissions. The methods are described in more detail in the MPP Development Document.

C. Quality Assurance/Quality Control (QA/QC) Requirements

EPA based today's proposed regulations on analytical data collected by EPA using rigorous QA/QC checks specified in the analytical methods listed in Table XV.C–1. These QA/QC checks include procedures specified in each of the analytical methods, as well as procedures used for the MPP sampling program in accordance with EPA sampling and analysis protocols. These QA/QC procedures include sample preservation and the use of method blanks, matrix spikes, matrix spike duplicates, laboratory duplicate samples, and QC standard checks (e.g., continuing calibration blanks). Because of these rigorous checks, EPA has high confidence in its data. Thus, EPA requests that submissions of analytical data include any available documentation of QA/QC procedures. However, EPA will still consider data submitted without detailed QA/QC information. If commenters sample their wastewaters to respond to this proposal, EPA encourages them to provide detailed documentation of the QA/QC checks for each sample. EPA also requests that sites collect and analyze 10 percent field duplicate samples to assess sampling variability, and sites provide data for equipment blanks for volatile organic pollutants when automatic compositors are used to collect samples.

TABLE XV.C–1.—ANALYTICAL METHODS FOR USE WITH MPP WASTEWATERS

Parameter	Method used in EPA sampling (alternative methods)
Aeromonas	9260L
Acidity	305.1
Alkalinity	310.1
Ammonia as Nitrogen	350.2
BOD 5-Day	405.1
BOD 5-Day (Carbonaceous)	405.1, SM5210
Carbaryl	632
Chemical Oxygen Demand (COD).	410.1 410.2 410.4 5220B
Chloride	300.0 325.3
Dichlorvos	1657
E. coli	9221F
Metals	1620 (200.7, 245.1)
Volatile Organics	1624 (624)
Semivolatile Organics	1625 (625)
Malathion	1657
Nitrate/Nitrite	300.0 353.1 353.2
Nitrogen, Total Kjeldahl	351.2 351.3
Oil and Grease	413.2
Oil and Grease (as HEM)	1664
cis-Permethrin	1660
trans-Permethrin	1660
pH	150.1 (SM 4500 H^+ B)
Phosphorus, Total	365.2 365.3
Salmonella	FDA–BAM
Tetrachlorvinphos (stirofos)	1657
Total Dissolved Solids (TDS)	160.1
Total Organic Carbon (TOC)	415.1
Total Orthophosphate	300.0 365.2
Total Suspended Solids (TSS)	160.2

Note: Standard Method (SM).

Appendix A: Definitions, Acronyms, and Abbreviations Used in This Document

AAMP—The American Association of Meat Processors

Administrator—The Administrator of the U.S. Environmental Protection Agency.

Agency—The U.S. Environmental Protection Agency

AMI—American Meat Institute

AMSA—Association of Metropolitan Sewerage Agencies

BAT—The best available technology economically achievable, applicable to effluent limitations for industrial discharges to surface waters, as defined by Section 304(b)(2)(B) of the CWA.

BCT—The best control technology for conventional pollutants, applicable to discharges of conventional pollutants from existing industrial point sources, as defined by Section 304(b)(4) of the CWA

BOD_5—Biochemical Oxygen Demand measured over a five day period.

BPJ—Best Professional Judgment

BPT—The best practicable control technology currently available, applicable to effluent limitations, for industrial discharges to surface waters, as defined by Section 304(b)(1) of the CWA.

CFR—Code of Federal Regulations

Clean Water Act (CWA)—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended.

Clean Water Act (CWA) Section 308 Questionnaire—A questionnaire sent to facilities under the authority of Section 308 of the CWA, which requests information to be used in the development of national effluent guidelines and standards.

Conventional Pollutants—Constituents of wastewater as determined by section 304(a)(4) of the CWA (and EPA regulations), *i.e.,* pollutants classified as biochemical oxygen demand, total suspended solids, oil and grease, fecal coliform, and pH.

Daily Discharge—The discharge of a pollutant measured during any calendar day or any 24-hour period that reasonably represents a calendar day.

Direct Discharger—A facility that discharges or may discharge treated or untreated wastewaters into waters of the United States.

DMR—Discharge Monitoring Report.

Effluent Limitation Guideline (ELGS)—Under CWA section 502(11), any restriction, including schedules of compliance, established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean (CWA sections 301(b) and 304(b)).

Existing Source—For this rule, any facility from which there is or may be a discharge of pollutants, the construction of which is commenced before the publication of the final regulations prescribing a standard of performance under section 306 of the CWA.

Facility—All contiguous property and equipment owned, operated, leased, or under the control of the same person or entity.

FDF—Fundamentally Different Factor

Finished Product—The final manufactured product produced on site, including products intended for consumption with no additional processing as well as products intended for further processing, when applicable.

First Processing—Operations which receive live meat animals or poultry and produce a raw, dressed meat or poultry product, either whole or in parts.

FTE—Full Time Equivalent Employee

Further Processing—Operations which utilize whole carcasses or cut-up meat or poultry products for the production of fresh or frozen products, and may include

the following types of processing: cutting and deboning, cooking, seasoning, smoking, canning, grinding, chopping, dicing, forming or breading.

Hazardous Waste—Any waste, including wastewater, defined as hazardous under RCRA, TSCA, or any State law.

HEM—A measure of oil and grease in wastewater by mixing the wastewater with hexane and measuring the oils and greases that are removed from the wastewater with n-hexane. Specifically EPA Method 1664, see 40 CFR 136.3, Table IB.

Indirect Discharger—A facility that discharges or may discharge wastewaters into a publicly-owned treatment works.

LTA (Long-Term Average)—For purposes of the effluent guidelines, average pollutant levels achieved over a period of time by a facility, subcategory, or technology option. LTAs were used in developing the effluent limitations guidelines and standards in today's proposed regulation.

Live Weight Killed (LWK)—The total weight of the total number of animals slaughtered during a specific time period.

Maximum Monthly Discharge Limitation—The highest allowable average of ''daily discharges'' over a calendar month, calculated as the sum of all ''daily discharges'' measured during the calendar month divided by the number of ''daily discharges'' measured during the month.

Meat—The term ''meat'' includes all animal products from cattle, calves, hogs, sheep, lambs, horses, goats and exotic livestock (e.g. elk, buffalo, deer) etc., except those defined as Poultry for human consumption. This category may include certain species not classified as ''meat'' by USDA FSIS and that may or may not be under USDA FSIS voluntary inspection.

MPP—Meat and Poultry Products

Minimum Level—The level at which an analytical system gives recognizable signals and an acceptable calibration point.

NAICS—North American Industry Classification System. NAICS was developed jointly by the U.S., Canada, and Mexico to provide new comparability in statistics about business activity across North America.

National Pollutant Discharge Elimination System (NPDES) Permit—A permit to discharge wastewater into waters of the United States issued under the National Pollutant Discharge Elimination System, authorized by section 402 of the CWA.

Nitrification Capability—The capability of a POTW treatment system to oxidize ammonia or ammonium salts initially to nitrites (via *Nitrosomonas* bacteria) and subsequently to nitrates (via *Nitrobacter* bacteria). Criteria for determining the nitrification capability of a POTW treatment system are: bioassays confirming the presence of nitrifying bacteria; and analyses of the nitrogen balance demonstrating a reduction in the concentration of ammonia or ammonium salts and an increase in the concentrations of nitrites and nitrates.

Non-Conventional Pollutants—Pollutants that are neither conventional pollutants nor priority pollutants listed at 40 CFR 401.15 and part 423 appendix A.

Non-Water Quality Environmental Impact—Deleterious aspects of control and treatment technologies applicable to point source category wastes, including, but not limited to air pollution, noise, radiation, sludge and solid waste generation, and energy used.

NRA—National Renderers Association

NRDC—Natural Resources Defense Council

NSPS—New Sources Performance Standards, applicable to industrial facilities whose construction is begun after the effective date of the final regulations (if those regulations are promulgated after June 25, 2002). EPA is scheduled to take final action on this proposal in December 2003. See 40 CFR 122.2.

NTTA—National Technology Transfer and Advancement Act

NWPCAM—The National Water Pollution Control Assessment Model (version 1.1) is a computer model to model the instream dissolved oxygen concentration, as influenced by pollutant reductions of BOD_5, Total Kjeldahl Nitrogen, Total Suspended Solids, and Fecal Coliform.

LWK and ELWK—Live Weight Killed and the Equivalent Live Weight Killed

Outfall—The mouth of conduit drains and other conduits from which a facility effluent discharges into receiving waters.

Pass Through—The term ''Pass Through'' means a Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Point Source—Any discernable, confined, and discrete conveyance from which pollutants are or may be discharged. See CWA section 502(14).

Pollutants of Concern (POCs)—Pollutants commonly found in meat and poultry processing wastewaters. Generally, a chemical is considered as a POC if it was detected in untreated process wastewater at 5 times a baseline value in more than 10% of the samples.

Poultry—Broilers, other young chickens, hens, fowl, mature chickens, turkeys, capons, geese, ducks, exotic poultry (e.g. ostriches), and small game such as quail, pheasants, and rabbits. This category may include species not classified as ''poultry'' by USDA FSIS and that may or may not be under USDA FSIS voluntary inspection.

Priority Pollutant—One hundred twenty-six compounds that are a subset of the 65 toxic pollutants and classes of pollutants outlined pursuant to section 307 of the CWA.

PSES—Pretreatment standards for existing sources of indirect discharges, under Section 307(b) of the CWA, applicable (for this rule) to indirect dischargers that commenced construction prior to promulgation of the final rule.

PSNS—Pretreatment standards for new sources under section 307(c) of the CWA.

Publicly Owned Treatment Works (POTW)—A treatment works as defined by section 212 of the Clean Water Act, which is owned by a State or municipality (as defined by section 502(4) of the Clean Water Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Clean Water Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

Raw Material—The basic input materials to a renderer composed of animal and poultry trimmings, bones, meat scraps, dead animals, feathers and related usable by-products.

RCRA—The Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6901 *et seq.*), which regulates the generation, treatment, storage, disposal, or recycling of solid and hazardous wastes.

RED MEAT—See the definition for ''MEAT''.

RFA—Regulatory Flexibility Act

SAP—Sampling and Analysis Plan

SBREFA—Small Business Regulatory Enforcement Fairness Act of 1996

SCC—Sample Control Center

SER—Small Entity Representative

SIC—Standard Industrial Classification (SIC)—A numerical categorization system used by the U.S. Department of Commerce to catalogue economic activity. SIC codes refer to the products, or group of products, produced or distributed, or to services rendered by an operating establishment. SIC codes are used to group establishments by the economic activities in which they are engaged. SIC codes often denote a facility's primary, secondary, tertiary, etc. economic activities.

Stearin—An ester of glycerol and stearic acid found in MPP wastewaters.

Total Nitrogen—Sum of nitrate/nitrite and TKN.

TKN—Total Kjeldahl Nitrogen

TSS—Total Suspended Solids

List of Subjects in 40 CFR Part 432

Environmental protection; Meat and meat products; Poultry and poultry products; Waste treatment and disposal; Water pollution control.

Dated: January 30, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set forth in this preamble, 40 CFR part 432 is proposed to be revised to read as follows:

PART 432—MEAT AND POULTRY PRODUCTS POINT SOURCE CATEGORY

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432.120 Applicability.
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Authority: Secs. 301, 304, 306, 307, 308, 402 and 501 of the Clean Water Act, as amended; 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342 and 1361.

§ 432.1 General applicability.

As defined more specifically in each subpart, this part applies to discharges of process wastewater resulting from sources engaged in the slaughtering, dressing and packing of mammals, including cattle, calves, hogs, sheep, lambs, and poultry, including chickens, turkeys, fowl and ducks; production of sausages, luncheon meats, cured, smoked and canned or other prepared meat and poultry products from

purchased carcasses and other materials; or production of animal oils, meat meal and the rendering of grease and tallow from animal fat, bones and meat scraps. These manufacturing activities are generally reported under one or more of the following Standard Industrial Classification (SIC) codes: 0751, 2011, 2013, 2015, 2047, 2048 and 2077 (1987 Manual) and under one or more of the following North American Industry Classification System (NAICS) codes: 311611, 311612, 311615, 311613, 311111, 311119, 311999 and 11234.

§ 432.2 General definitions.

As used in this part:

(a) The general definitions and abbreviations in 40 CFR part 401 shall apply.

(b) *ELWK (equivalent live weight killed)* means the total weight of the total number of animals slaughtered at locations other than the slaughterhouse or packinghouse, which animals provide hides, blood, viscera or renderable materials for processing at that slaughterhouse, in addition to those derived from animals slaughtered on site.

(c) *Fecal coliform* means the bacterial count, as determined by approved methods of analysis for Parameter 1 in Table 1A at 40 CFR 136.3.

(d) *Finished Product* means the final fresh or frozen products resulting from the further processing of meat or poultry whole or cut-up carcasses.

(e) *Further processing* means operations which utilize whole carcasses or cut-up meat or poultry products for the production of fresh or frozen products, and may include the following types of processing: cutting and deboning, cooking, seasoning, smoking, canning, grinding, chopping, dicing, forming and/or breading.

(f) *LWK (live weight killed)* means the total weight of the total number of animals slaughtered during the time period to which the limitations or standards apply, i.e. daily or monthly.

(g) *Meat* means products derived from the slaughter and processing of cattle, calves, hogs, sheep, lambs, and any meat that is not listed under the definition of poultry.

(h) *Packinghouse* means a plant that both slaughters animals and subsequently processes carcasses into cured, smoked, canned or other prepared meat products.

(i) *Poultry* means products derived from the slaughter and processing of broilers, other young chickens, mature chickens, hens, turkeys, capons, geese, ducks, small game fowl such as quail or pheasants, and small game such as rabbits.

(j) *Raw Material* means the basic input materials to a renderer composed of animal and poultry trimmings, bones, blood, meat scraps, dead animals, feathers and related usable by-products.

(k) The other parameters regulated in this part are listed with approved methods of analysis in Table 1B at 40 CFR 136.3, and are defined as follows:

(1) *Ammonia (as N)* means ammonia measured as nitrogen.

(2) *BOD_5* means 5-day biochemical oxygen demand.

(3) *COD* means chemical oxygen demand.

(4) *O&G* means total recoverable oil and grease.

(5) *O&G (as HEM)* means total recoverable oil and grease measured as n-hexane extractable material.

(6) *Total Nitrogen* means the total of nitrate/nitrite and total kjeldahl nitrogen.

(7) *Total Phosphorus* means all of the phosphorus present in the sample, regardless of form, as measured by the persulfate digestion procedure.

(8) *TSS* means total suspended solids.

(l) *Slaughterhouse* means a facility that slaughters animals and has as its main product fresh meat as whole, half or quarter carcasses or small meat cuts.

(m) The nitrate/nitrite part of total nitrogen may be measured by EPA Method 300.0.

§ 432.3 General pretreatment standards.

Any source subject to this part that introduces process wastewater pollutants into a publicly owned treatment works (POTW) must comply with 40 CFR part 403.

§ 432.4 General limitation or standard for pH.

The pH must remain within the range 6 to 9 in any discharge subject to BPT, BAT, NSPS, or BCT limitations or standards in this part.

Subpart A—Simple Slaughterhouses

§ 432.10 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by simple slaughterhouses.

§ 432.11 Special definitions.

For the purpose of this subpart: *Simple slaughterhouse* means a slaughterhouse which accomplishes very limited by-product processing, if any, usually no more than two operations such as rendering, paunch and viscera handling, or processing of blood, hide or hair.

§ 432.12 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5	0.24	0.12
Fecal Coliform	([2])	([2])
O&G [3]	0.12	0.06
TSS	0.40	0.20

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 most probable number (MPN) per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5	0.04	0.02
TSS	0.08	0.04

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(3) Processing of blood derived from animals slaughtered at locations off site: The same limitations for BOD_5 and TSS specified in paragraph (a)(2) of this section apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5	0.06	0.03

SUPPLEMENTAL LIMITATIONS (BPT)—Continued

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
TSS	0.12	0.06

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(5) Dry rendering of material derived from animals slaughtered at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.02	0.01
TSS	0.04	0.02

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK).

(1) Animals slaughtered on-site: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a)(1) of this section; and a limitation for COD is as follows:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.1450	0.1180

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in paragraph (a)(2) of this section apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

(3) Processing of blood derived from animals slaughtered at locations off site: The same supplemental limitations for BOD_5 and TSS specified in paragraph (a)(2) of this section apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in paragraph (a)(4) of this section apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section and the following supplemental limitation for COD applies in addition to the COD limitation specified in paragraph (b)(1) of this section.

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.1550	0.1260

[1] Pounds per 1000 lbs (or g/kg) raw material.

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in paragraph (a)(5) of this section apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section and the supplemental limitations for COD specified in paragraph (b)(4) of this section apply in addition to the COD limitation specified in paragraph (b)(1) of this section.

(6) Further processing of animals slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the COD limitation specified in paragraph (b)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.278	0.226

[1] Pounds per 1000 lbs (or g/kg) finished product.

(7) Rendering of raw materials from animals slaughtered on-site: The following supplemental limitations for COD apply in addition to the COD limitation specified in paragraph (b)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.1550	0.1260

[1] Pounds per 1000 lbs (or g/kg) raw material.

§ 432.13 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT:

(a) Animals slaughtered on-site:

EFFLUENT LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0655	0.0143
Total Nitrogen	0.0561	0.0230
Total Phosphorus	0.0497	0.0238

[1] Pounds per 1000 lbs (or g/kg) LWK.

(b) Further processing of animals slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a) of this section:

SUPPLEMENTAL LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0704	0.0153
Total Nitrogen	0.0965	0.0396
Total Phosphorus	0.0917	0.0439

[1] Pounds per 1000 lbs (or g/kg) finished product.

(c) Rendering of by-products from animals slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a) of this section:

SUPPLEMENTAL LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0438	0.0096
Total Nitrogen	0.0601	0.0247
Total Phosphorus	0.0472	0.0226

[1] Pounds per 1000 lbs (or g/kg) raw material.

§ 432.15 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site: The standards for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.12(a)(1); and standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.34	0.17

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) Processing of blood derived from animals slaughtered at locations off site: The supplemental standards for BOD_5 and TSS specified in § 432.12(a)(2) and the following supplemental standards for ammonia (as N), apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

SUPPLEMENTAL STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.06	0.03

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(3) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental standards for BOD_5 and TSS specified in § 432.12(a)(4) and the following supplemental standards for ammonia (as N) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

SUPPLEMENTAL STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.10	0.05

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(4) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental standards for BOD_5 and TSS specified in § 432.12(a)(5) and the following supplemental standards for ammonia (as N) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

SUPPLEMENTAL STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.04	0.02

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK)

(1) Animals slaughtered on-site:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0655	0.0143
BOD_5	0.0442	0.0208
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.0835	0.0210
Total Nitrogen	0.0561	0.0230
Total Phosphorus	0.0497	0.0238
TSS	0.0178	0.0137

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.

(2) Further processing of animals slaughtered on site, or at locations off site: The following supplemental standards apply in addition to the corresponding standard specified in paragraph (b)(1) of this section:

SUPPLEMENTAL STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0704	0.0153
BOD_5	0.0520	0.0245
O&G (as HEM)	0.1430	0.0362
Total Nitrogen	0.0965	0.0396
Total Phosphorus	0.0917	0.0439
TSS	0.0262	0.0201

[1] Pounds per 1000 lbs (or g/kg) finished product.

(3) Rendering of by-products from animals slaughtered on site, or at locations off site: The following supplemental standards apply in addition to the corresponding standard specified in paragraph (b)(1) of this section:

SUPPLEMENTAL STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0438	0.0096
BOD_5	0.0578	0.0272
O&G (as HEM)	0.1170	0.0297
Total Nitrogen	0.0601	0.0247
Total Phosphorus	0.0472	0.0226
TSS	0.0163	0.0125

[1] Pounds per 1000 lbs (or g/kg) raw material.

§ 432.17 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, TSS, O&G, O&G (as HEM) and fecal coliform are the same as the corresponding limitations specified in § 432.12.

Subpart B—Complex Slaughterhouses

§ 432.20 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by complex slaughterhouses.

§ 432.21 Special definitions.

For the purpose of this subpart: *Complex slaughterhouse* means a slaughterhouse which accomplishes extensive by-product processing, usually at least three operations such as rendering, paunch and viscera handling, or processing of blood, hide or hair.

§ 432.22 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.42	0.21
Fecal Coliform	([2])	([2])
O&G [3]	0.16	0.08
TSS	0.50	0.25

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and

TSS specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK). (1) Animals slaughtered on-site: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a)(1) of this section; and the effluent limitations for COD specified in § 432.12(b)(1) apply.

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(6) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for COD specified in § 432.12(b)(6) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(7) Rendering of raw materials from animals slaughtered on-site: supplemental limitations for COD specified in § 432.12(b)(7) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

§ 432.23 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT:

(a) Animals slaughtered on-site: The effluent limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(a) apply.

(b) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(b) apply in addition to the corresponding limitation specified in § 432.13(a).

(c) Rendering of animals slaughtered on site, or at locations off site: The supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(c) apply in addition to the corresponding limitation specified in § 432.13(a).

§ 432.25 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site: The standards for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.22(a)(1); and the standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.48	0.24

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(2), apply in addition to the corresponding standard specified in paragraph (a)(1) of this section.

(3) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(3) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section.

(4) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(4) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK). (1) Animals slaughtered on-site, the effluent standards for BOD_5, TSS, O&G (as HEM), fecal coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(1) apply.

(2) Further processing of animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(2) apply in addition to the corresponding standard specified in § 432.15(b)(1).

(3) Rendering of by-products from animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(3) apply in addition to the corresponding standard specified in § 432.15(b)(1).

§ 432.27 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitations specified in § 432.22.

Subpart C—Low-processing Packinghouses

§ 432.30 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by low-processing packinghouses.

§ 432.31 Special definitions.

For the purpose of this subpart: *Low-processing packinghouse* means a packinghouse that processes no more, and usually less, that the total animals killed at that plant.

§ 432.32 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.34	0.17
Fecal Coliform	([2])	([2])
O&G [3]	0.16	0.08
TSS	0.48	0.24

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK). (1) Animals slaughtered on-site: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a)(1) of this section; and the effluent limitations for COD specified in § 432.12(b)(1) apply.

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(6) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for COD specified in § 432.12(b)(6) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(7) Rendering of raw materials from animals slaughtered on-site: supplemental limitations for COD specified in § 432.12(b)(7) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

§ 432.33 Effluent limitations attainable by the application of the best available technology economically achievable (BAT)

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT:

(a) Animals slaughtered on-site: The effluent limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(a) apply.

(b) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(b) apply in addition to the corresponding limitation specified in § 432.13(a).

(c) Rendering of animals slaughtered on site, or at locations off site: The supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(c) apply in addition to the corresponding limitation specified in § 432.13(a).

§ 432.35 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.32(a)(1); and standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily[1]	Maximum monthly avg.[1]
Ammonia (as N)	0.48	0.24

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(2), apply in addition to the corresponding standard specified in paragraph (a)(1) of this section.

(3) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(3) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section.

(4) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(4) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK). (1) Animals slaughtered on-site:

The effluent standards for BOD_5, TSS, O&G (as HEM), fecal coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(1) apply.

(2) Further processing of animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(2) apply in addition to the corresponding standard specified in § 432.15(b)(1).

(3) Rendering of by-products from animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(3) apply in addition to the corresponding standard specified in § 432.15(b)(1).

§ 432.37 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitations specified in § 433.32.

Subpart D—High-Processing Packinghouse

§ 432.40 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by high-processing packinghouses.

§ 432.41 Special definitions.

For the purpose of this subpart: *High-processing packinghouse* means a packinghouse which processes both animals slaughtered at the site and additional carcasses from outside sources.

§ 432.42 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	[2]0.48	0.24
Fecal Coliform	([3])	([3])
O&G [4]	0.26	0.13
TSS [2]	0.62	0.31

[1] Pounds per 1000 lbs (or g/kg) LWK.

[2] The values for BOD_5 and TSS are for average plants, i.e., plants where the ratio: avg.wt. of processed meat products/avg. LWK is 0.55. Adjustments can be made for high-processing packinghouses operating at other such ratios according to the following equations: lbs BOD_5/1000 lbs LWK = 0.21 + 0.23 (v − 0.4) and lbs TSS/1000 lbs LWK = 0.28 + 0.3 (v − 0.4), where v equals the following ratio: lbs processed meat products/lbs LWK.

[3] Maximum of 400 MPN per 100 ml at any time.

[4] May be measured as hexane extractable material (HEM).

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK). (1) Animals slaughtered on-site: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a)(1) of this section; and the effluent limitations for COD specified in § 432.12(b)(1) apply.

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(6) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for COD specified in § 432.12(b)(6) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(7) Rendering of raw materials from animals slaughtered on-site: The supplemental limitations for COD and specified in § 432.12(b)(7) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

§ 432.43 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more that 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT:

(a) Animals slaughtered on-site: The limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(a).

(b) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(b) apply in addition to the corresponding limitation specified in § 432.13(a).

(c) Rendering of animals slaughtered on site, or at locations off site: The

supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(c) apply in addition to the corresponding limitation specified in § 432.13(a).

§ 432.45 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK): (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site: The standards for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.42(a)(1); and standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.80	0.40

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(2), apply in addition to the corresponding standards specified in paragraph (a)(1) of this section.

(3) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(3) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section.

(4) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(4) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK).

(1) Animals slaughtered on-site, the effluent standards for BOD_5, TSS, O&G (as HEM), fecal coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(1) apply.

(2) Further processing of animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(2) apply in addition to the corresponding standard specified in § 432.15(b)(1).

(3) Rendering of of by-products from animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(3) apply in addition to the corresponding standard specified in § 432.15(b)(1).

§ 432.47 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitations specified in § 432.42.

Subpart E—Small Processors

§ 432.50 Applicability.

This part applies to discharges of process wastewater resulting from the production of finished meat products such as fresh meat cuts, smoked products, canned products, hams, sausages, luncheon meats, or similar products by a small processor.

§ 432.51 Special definitions.

For the purpose of this subpart:

(a) *Finished product* means the final product, such as fresh meat cuts, hams, bacon or other smoked meats, sausage, luncheon meats, stew, canned meats or related products.

(b) *Small processor* means an operation that produces up to 6000 lbs (2730 kg) per day of any type or combination of finished products.

§ 432.52 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

EFFLUENT LIMITATIONS (BPT)

Regulated Parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	2.0	1
Fecal Coliform	([2])	([2])
O&G[3]	1.0	0.5
TSS	2.4	1.2

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

§ 432.55 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	1.0	0.5
Fecal Coliform	([2])	([2])
O&G[3]	0.5	0.25
TSS	1.2	0.6

[1] Pound per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

§ 432.57 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS and O&G are the same as the corresponding standard specified in § 432.55.

Subpart F—Meat Cutters

§ 432.60 Applicability.

This part applies to discharges of process wastewater resulting from the fabrication or production of fresh meat cuts, such as steaks, roasts, chops, etc. by a meat cutter.

§ 432.61 Special definitions.

For the purpose of this subpart:

(a) *Finished product* means the final product, such as fresh meat cuts including, but not limited to, steaks, roasts, chops, or boneless meats.

(b) *Meat cutter* means an operation which fabricates, cuts, or otherwise produces fresh meat cuts and related finished products from larger pieces of meat (carcasses or not carcasses), at rates greater than 6000 lbs (2730 kg) per day.

§ 432.62 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that generate no more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.036	0.018
Fecal Coliform	([2])	([2])
O&G [3]	0.012	0.006
TSS	0.044	0.022

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a) of this section; and limitations for COD are as follows.

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.0654	0.0531

[1] Pounds per 1000 lbs (or g/kg) of finished product.

§ 432.63 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: (a) Facilities that generate no more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia	8.0	4.0

[1] mg/L (ppm).

(b) Facilities that generate more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia	0.0165	0.0036
Total Nitrogen	0.0226	0.0093
Total Phosphorus	0.0215	0.0103

[1] mg/L (ppm).

§ 432.65 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: (a) Facilities that generate no more than 50 million pounds per year of finished products:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.030	0.015
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.012	0.006
TSS	0.036	0.018

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.

(b) Facilities that generate more than 50 million pounds per year of finished products:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0165	0.0036
BOD_5	0.0122	0.0058
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.0337	0.0085
Total Nitrogen	0.0226	0.0093
Total Phosphorus	0.0215	0.0103
TSS	0.0062	0.0047

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.

§ 432.67 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.62.

Subpart G—Sausage and Luncheon Meats Processors

§ 432.70 Applicability.

This part applies to discharges of process wastewater resulting from the production of fresh meat cuts, sausage, bologna and other luncheon meats by a sausage and luncheon meat processor.

§ 432.71 Special definitions.

For the purpose of this subpart:

(a) *Finished product* means the final product as fresh meat cuts, which includes steaks, roasts, chops or boneless meat, bacon or other smoked meats (except hams) such as sausage, bologna or other luncheon meats, or related products (except canned meats).

(b) *Sausage and luncheon meat processor* means an operation which cuts fresh meats, grinds, mixes, seasons, smokes or otherwise produces finished products such as sausage, bologna and luncheon meats at rates greater than 6000 lbs (2730 kg) per day.

§ 432.72 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that generate no more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.56	0.28
Fecal Coliform	([2])	([2])
O&G [3]	0.2	0.10
TSS	0.68	0.34

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a) of this section; and limitations for COD are as follows.

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.2780	0.2260

[1] Pounds per 1000 lbs (or g/kg) of finished product.

§ 432.73 Effluent limitations attainable by the application of the best available technology economically achievable (BAT)

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: (a) Facilities that generate no more than 50 million pounds per year of finished products: The limitations for ammonia (as N) are the same as specified in § 432.63(a).

(b) Facilities that generate more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia	0.0704	0.0153
Total Nitrogen	0.0965	0.0396
Total Phosphorus	0.0917	0.0439

[1] mg/L (ppm).

§ 432.75 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: (a) Facilities that generate no more than 50 million pounds per year of finished products:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.48	0.24
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.20	0.10
TSS	0.58	0.29

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.

(b) Facilities that generate more than 50 million pounds per year of finished products:

PERFORMANCE STANDARDS (NSPS):

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0704	0.0153
BOD_5	0.0520	0.0245

PERFORMANCE STANDARDS (NSPS):—Continued

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.1430	0.0362
Total Nitrogen	0.0965	0.0396
Total Phosphorus	0.0917	0.0439
TSS	0.0262	0.0201

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.

§ 432.77 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.72.

Subpart H—Ham Processors

§ 432.80 Applicability.

This part applies to discharges of process wastewater resulting from the production of hams, alone or in combination with other finished products, by a ham processor.

§ 432.81 Special definitions.

For the purpose of this subpart:

(a) *Finished products* means the final product as fresh meat cuts, which includes steaks, roasts, chops or boneless meat, smoked or cured hams, bacon or other smoked meats, sausage, bologna or other luncheon meats (except canned meats).

(b) *Ham processor* means an operation producing hams, alone or in combination with other finished products, at rates greater than 6000 lbs (2730 kg) per day.

§ 432.82 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT: (a) Facilities that generate no more than 50 million pounds per year of finished products:

EFFLUENT LIMITATION (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.62	0.31
Fecal Coliform	([2])	([2])
O&G [3]	0.22	0.11
TSS	0.74	0.37

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a) of this section; and limitations for COD are the same as the COD limitations specified in § 432.62(b).

§ 432.83 Effluent limitations attainable by the application of the best available technology economically achievable (BAT)

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT:

(a) Facilities that generate no more than 50 million pounds per year of finished products: The limitations for ammonia (as N) are the same as specified in § 432.63(a).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as specified in § 432.73(b).

§ 432.85 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: (a) Facilities that generate no more than 50 million pounds per year of finished products: The standards for BOD_5, TSS, O&G and Fecal Coliform are the same as the corresponding limitation specified in § 432.82(a).

(b) Facilities that generate more than 50 million pounds per year of finished products: The standards for BOD_5, TSS, O&G (as HEM), Fecal Coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding standard specified in § 432.75(b).

§ 432.87 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.82.

Subpart I—Canned Meats Processors

§ 432.90 Applicability.

This part applies to discharges of process wastewater resulting from the production of canned meats, alone or in combination with any other finished products, by a canned meats processor.

§ 432.91 Special definitions.

For the purpose of this subpart:

(a) *Canned meats processor* means an operation which prepares and cans meats (stew, sandwich spreads, or similar products), alone or in combination with other finished products, at rates greater than 6000 lbs (2730 kg) per day.

(b) *Finished products* means the final product, such as fresh meat cuts which includes steaks, roasts, chops or boneless meat, smoked or cured hams, bacon or other smoked meats, sausage, bologna or other luncheon meats, stews, sandwich spreads or other canned meats.

§ 432.92 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT: (a) Facilities that generate no more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.74	0.37
Fecal Coliform	([2])	([2])
O&G [3]	0.26	0.13
TSS	0.90	0.45

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a) of this section; and limitations for COD are the same as the COD limitations specified in § 432.62(b).

§ 432.93 Effluent limitations attainable by the application of the best available technology economically achievable (BAT)

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: (a) Facilities that generate no more than 50 million pounds per year of finished products: The limitations for ammonia (as N) are the same as specified in § 432.63(a).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as specified in § 432.73(b).

§ 432.95 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: (a) Facilities that generate no more than 50 million pounds per year of finished products: The standards for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.92(a).

(b) Facilities that generate more than 50 million pounds per year of finished products: The standards for BOD_5, TSS, O&G (as HEM), Fecal Coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding standard specified in § 432.75(b)

§ 432.97 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.92.

Subpart J—Renderers

§ 432.100 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat meal, dried animal by-product residues (tankage), animal oils, grease and tallow, perhaps including hide curing, by a renderer.

§ 432.101 Special definitions.

For the purpose of this subpart:

(a) *Raw material* (*RM*) means the basic input materials to a renderer composed of animal and poultry trimmings, bones, meat scraps, dead animals, feathers and related usable by-products.

(b) *Renderer* means an independent or off-site rendering operation, which is conducted separate from a slaughterhouse, packinghouse or poultry dressing or processing operation, uses raw material at rates greater than 10 million pounds per year, produces meat meal, tankage, animal fats or oils, grease, and tallow, and may cure cattle hides, but excludes marine oils, fish meal, and fish oils.

(c) *Tankage* means dried animal by-product residues used in feedstuffs.

(d) *Tallow* means a product made from beef cattle or sheep fat that has a melting point of 40°C or greater.

§ 432.102 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.34	0.17
COD	0.184	0.111
Fecal Coliform	([2])	([2])
O&G[3]	0.20	0.10
TSS	0.42	0.21

[1] Pounds per 1000 lbs (or g/kg) of raw material.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(2) The limitations for BOD_5 and TSS specified in paragraph (a) of this section were derived for a renderer which does no cattle hide curing as part of its operations. If a renderer does conduct hide curing, the following empirical formulas should be used to derive supplemental limitations for BOD_5 and TSS which apply in addition to the corresponding limitation specified in paragraph (a) of this section:

lbs BOD_5/1000 lbs RM = 17.6 × (no. of hides)/lbs RM

kg BOD_5/kkg RM = 8 × (no. of hides)/kg RM

lbs TSS/1000 lbs RM = 24.2 × (no. of hides)/lbs RM
kg TSS/kkg RM = 11 × (no. of hides)/kg RM

§ 432.103 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT:

EFFLUENT LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia	0.0194	0.0103

[1] Pounds per 1000 lbs (gm/kg) of raw material (RM).

§ 432.105 New source performance standards (NSPS).

(a) Any new source subject to this subpart must achieve the following performance standards:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0194	0.0103
BOD_5	0.0436	0.0209
Fecal coliform	([2])	([2])
O&G[3]	0.2350	0.0594
TSS	0.1780	0.0887

[1] Pounds per 1000 lbs (gm/kg) of raw material (RM).
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(b) The standards for BOD_5 and TSS specified in paragraph (a) of this section were derived for a renderer which does no cattle hide curing as part of the plant operations. If a renderer does conduct hide curing, the same empirical formulas specified in § 432.102(b) should be used to derive supplemental standards for BOD_5 and TSS which apply in addition to the corresponding standard specified in paragraph (a) of this section.

§ 432.107 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD,5 TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.105(a).

(b) The limitations for BOD_5 and TSS specified in paragraph (a) of this section were derived for a renderer which does no cattle hide curing as part of the plant operations. If a renderer does conduct hide curing, the following empirical formulas should be used to derive supplemental limitations for BOD_5 and TSS which apply in addition to the corresponding limitation specified in paragraph (a) of this section:
lbs BOD_5/1000 lbs RM = 7.9 × (no. of hides)/lbs RM
kg BOD_5/kkg RM = 3.6 × (no. of hides)/kg RM
lbs TSS/1000 lbs RM = 13.6 × (no. of hides)/lbs RM
kg TSS/kkg RM = 6.2 × (no. of hides)/kg RM

Subpart K—Poultry First Processing

§ 432.110 Applicability.

This part applies to discharges of process wastewater resulting from the slaughtering of poultry, further processing of poultry and rendering of material derived from slaughtered poultry.

§ 432.111 Special definitions.

For the purpose of this subpart: *Poultry first processing* means slaughtering of poultry and producing whole, half, quarter or smaller meat cuts. Poultry first processing also includes cutting deboning and grinding of poultry when these operations are performed on site at a slaughtering facility. However, when cutting, deboning and grinding is performed at locations off site, these operations are considered further processing operations.

§ 432.112 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT: (a) Facilities that slaughter no more than 10 million pounds per year (in units of LWK).

(1) Poultry first processing:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.1630	0.0356
BOD_5	0.1200	0.0568
Fecal Coliform	([2])	([2])
O&G (as HEM)	1.330	0.335

EFFLUENT LIMITATIONS (BPT)—Continued

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
TSS	0.2120	0.0991

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.

(2) Further processing of poultry slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0400	0.0087
BOD_5	0.0458	0.0215
O&G (as HEM)	0.5150	0.1290
TSS	0.0623	0.0290

[1] Pounds per 1000 lbs (or g/kg) finished product.

(3) Rendering of by-products from poultry slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0771	0.0168
BOD_5	0.0324	0.0152
O&G (as HEM)	0.2950	0.0745
TSS	0.2400	0.1120

[1] Pounds per 1000 lbs (or g/kg) raw material.

(b) Facilities that slaughter more than 10 million pounds per year (in units of LWK) (1) Poultry first processing:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.163	0.0356
BOD_5	0.120	0.0568
Fecal Coliform	([2])	([2])
O&G (as HEM)	1.31	0.33
Total Nitrogen	0.2239	0.0921
Total Phosphorus	0.1760	0.0843
TSS	0.0609	0.0467

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.

(2) Further processing of poultry slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (b)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0400	0.0087
BOD_5	0.0453	0.0213
O&G (as HEM)	0.2290	0.0579
Total Nitrogen	0.0548	0.0226
Total Phosphorus	0.0431	0.0206
TSS	0.0149	0.0114

[1] Pounds per 1000 lbs (or g/kg) finished product.

(3) Rendering of by-products from poultry slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (b)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0771	0.0168
BOD_5	0.0324	0.0152
O&G (as HEM)	0.1980	0.0500
Total Nitrogen	0.0601	0.0247
Total Phosphorus	0.0472	0.0226
TSS	0.0271	0.0208

[1] Pounds per 1000 lbs (or g/kg) raw material.

§ 432.113 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: The limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding limitation specified in § 432.112.

§ 432.115 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: The standards for BOD_5, TSS, O&G (as HEM), Fecal Coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding limitation specified in § 432.112.

§ 432.117 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G (as HEM) and Fecal Coliform are the same as the corresponding limitation specified in § 432.112.

Subpart L—Poultry Further Processing

§ 432.120 Applicability

This part applies to discharges of process wastewater resulting from further processing of poultry.

§ 432.122 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT: (a) Facilities that further process no more than 7 million pounds per year (in units of finished product):

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0400	0.0087
BOD_5	0.0458	0.0215
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.5150	0.1290
TSS	0.0623	0.0290

[1] Pounds per 1000 lbs (or g/kg) of finished product.

[2] Maximum of 400 MPN per 100 ml at any time.

(b) Facilities that further process more than 7 million pounds per year (in units of finished product):

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0400	0.0087
BOD_5	0.0453	0.0213
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.229	0.0579
Total Nitrogen	0.0548	0.0226
Total Phosphorus	0.0431	0.0206
TSS	0.0149	0.0114

[1] Pounds per 1000 lbs (or g/kg) finished product.

[2] Maximum of 400 MPN per 100 ml at any time.

§ 432.123 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for Fecal Coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding limitation specified in § 432.122.

§ 432.125 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: The standards for BOD_5, TSS, O&G (as HEM), Fecal Coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding limitation specified in § 432.122.

§ 432.127 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G (as HEM) and Fecal Coliform are the same as the corresponding limitation specified in § 432.122.

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Part II

Environmental Protection Agency

40 CFR Part 432

Effluent Limitations Guidelines and New Source Performance Standards for the Meat and Poultry Products Point Source Category; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 432

[FRL–7137–9]

RIN 2040–AD56

Effluent Limitations Guidelines and New Source Performance Standards for the Meat and Poultry Products Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action presents the Agency's proposed effluent limitations guidelines and standards for wastewater discharges from meat and poultry processing facilities. The proposed regulation revises technology-based effluent limitations guidelines and standards for wastewater discharges associated with the operation of new and existing meat processing and independent rendering facilities, proposes new effluent limitations guidelines for poultry slaughtering and poultry further processing facilities that discharge wastewater, and revises the name of the regulation.

EPA estimates that compliance with this regulation as proposed would reduce the discharge of nutrients by at least 53 million pounds per year and would cost an estimated $80 million (year 1999 $, pre-tax) on an annual basis. In addition, EPA expects that discharges of conventional pollutants would be reduced by at least 32 million pounds per year. EPA has estimated that the annual quantifiable benefits of the proposal would be approximately $37 million.

DATES: EPA must receive comments on the proposal by midnight of April 26, 2002. EPA will conduct two public hearings on March 14, 2002 at 1 p.m. (Kansas City, MO) and April 9, 2002 at 9 a.m. (Washington, DC). For information on the location of the public hearings, see **ADDRESSES**.

ADDRESSES: Submit written comments to Ms. Samantha Lewis, Office of Water, Engineering and Analysis Division (4303T), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. For hand-deliveries or Federal Express, please send comments to Ms. Samantha Lewis, Office of Water, Engineering and Analysis Division, Room 6233L, 1201 Constitution Avenue, NW., 6th Floor, Connecting Wing, Washington, DC 20460. Comments may be sent by e-mail to the following e-mail address: ''meatproducts.rule@epa.gov''. For additional information on how to submit comments, see **SUPPLEMENTARY INFORMATION**, How to Submit Comments.

The first public hearing on this proposal will be held at the Hilton KCI Airport Hotel, 8801 NW 112th Street, Kansas City, Missouri. The second public hearing on this proposal will be held at the U.S. EPA auditorium, Waterside Mall, 401 M Street SW., Washington, DC.

The public record for this proposed rulemaking has been established under docket number W–01–06 and is located in the Water Docket East Tower Basement, Room EB57, 401 M St. SW., Washington, DC 20460. The record is available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. For access to the docket materials, call (202) 260–3027 to schedule an appointment. You may have to pay a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: For technical information concerning today's proposed rule, contact Ms. Samantha Lewis at (202) 566–1058. For economic information contact Dr. William Wheeler at (202) 566–1078.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action include:

Category	Examples of regulated entities	Primary SIC and NAICS codes
Industry	Facilities engaged in first processing, further processing, or rendering of meat and poultry products, which may include the following sectors:	
	Meat Packing Plants	2011 (SIC).
	Animal (except Poultry) Slaughtering	311611 (NAICS).
	Meat Processed from Carcasses	311612 (NAICS).
	Sausages and Other Prepared Meat Products	2013 (SIC).
	Poultry Slaughtering and Processing	2015 (SIC).
	Poultry Processing	311615 (NAICS).
	Rendering and Meat By-Product Processing	311613 (NAICS).
	Support Activities for Animal Production	11521 (NAICS).
	Prepared Feed and Feed Ingredients for Animals and Fowls, Except Dogs and Cats	2048 (SIC).
	Dog and Cat Food	2047 (SIC).
	Dog and Cat Food Manufacturing	311111 (NAICS).
	Other Animal Food Manufacturing	311119 (NAICS).
	All Other Miscellaneous Food Manufacturing	311999 (NAICS).
	Animal and Marine Fats and Oils	2077 (SIC).
	Poultry Hatcheries and	11234 (NAICS).
	Livestock Services, Except Veterinary	0751 (SIC).

The preceding table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by promulgation of this proposed rule. Other types of entities not listed in the table could also be regulated. To determine whether your facility would be regulated by promulgation of this proposed rule, you should carefully examine the applicability subsection of each proposed subpart of part 432. You should also examine the description of the proposed scope of each subpart in Section VI.B of this document. If you have questions regarding the applicability of this proposed action to a particular entity, please contact the person listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

How To Submit Comments

EPA requests an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

Please submit any references cited in your comments.

Comments may also be sent via e-mail, see **ADDRESSES.** Electronic comments must specify docket number W–01–06 and must be submitted as an ASCII, Word, or WordPerfect file avoiding the use of special characters and any form of encryption. Electronic comments on this proposal may be filed online at many Federal Depository Libraries. No confidential business information (CBI) should be sent via e-mail.

Protection of Confidential Business Information (CBI)

EPA notes that certain information and data in the record supporting the proposed rule have been claimed as CBI and, therefore, are not included in the record that is available to the public in the Water Docket. Pursuant to EPA regulations at 40 CFR 2.203 and 2.211, EPA treats all information for which a claim of confidentiality is made as confidential unless and until it makes a determination to the contrary under 40 CFR 2.205. Further, the Agency has not included in the docket some data not claimed as CBI because release of this information would indirectly reveal information claimed to be confidential. To provide the public with as much information as possible in support of the proposed rulemaking, EPA is presenting in the public record certain information in aggregated form or, alternatively, is masking facility identities or employing other strategies in order to preserve confidentiality claims. This approach ensures that the information in the public record both explains the basis for today's proposal and allows for a meaningful opportunity for public comment, without compromising CBI claims.

Some tabulations and analyses of facility-specific data claimed as CBI are available to the company that submitted the information. To ensure that all data or information claimed as CBI is protected in accordance with EPA regulations, any requests for release of such company-specific data should be submitted to EPA on company letterhead and signed by a responsible official authorized to receive such data. The request must list the specific data requested and include the following statement, ''I certify that EPA is authorized to transfer confidential business information submitted by my company, and that I am authorized to receive it.''

Supporting Documentation

The rules proposed today are supported by several documents:

1. ''Economic Analysis of Proposed Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Industry Point Source Category'' (EPA–821–B–01–006). Hereafter referred to as the MPP Economic Analysis, this document presents the analysis of compliance costs; facility, firm, small business and market impacts; and benefits. In addition, this document presents an analysis of cost-effectiveness.

2. ''Development Document for Proposed Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Industry Point Source Category'' (EPA–821–B–01–007). Hereafter referred to as the MPP Development Document, the document presents EPA's technical conclusions concerning the MPP proposal. This document describes, among other things, the data collection activities, the wastewater treatment technology options, effluent characterization, effluent reduction of the wastewater treatment technology options, estimate of costs to the industry, and estimate of effects on non-water quality environmental impacts.

3. ''Environmental Assessment of Proposed Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Industry Point Source Category'' (EPA–821–B–01–008). Hereafter referred to as the MPP Environmental Assessment, the document presents the analysis of water quality impacts and potential benefits for each regulatory option.

How to Obtain Supporting Documents

All documents are available from the National Service Center for Environmental Publications, P.O. Box 42419, Cincinnati, OH 45242–2419, (800) 490–9198 and the EPA Water Docket. The supporting technical documentation (*e.g.*, MPP Development Document, Economic Analysis and Environmental Assessment) can be obtained on the Internet, located at *http://www.epa.gov/ost/guide/meatproducts/*. This website also links to an electronic version of today's proposed rule.

Overview

The preamble describes the legal authority for the proposal; a summary of the proposal; background information; the technical and economic methodologies used by the Agency to develop these proposed regulations and, in an appendix, the definitions, acronyms, and abbreviations used in this document. This preamble also solicits comment and data generally, and on specific areas of interest.

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I. Legal Authority

These regulations are proposed under the authority of sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361.

II. Legislative Background

A. Clean Water Act

Congress adopted the Clean Water Act (CWA) to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' Section 101(a), 33 U.S.C. 1251(a). To achieve this goal, the CWA prohibits the discharge of pollutants into navigable waters except in compliance with the statute. The Clean Water Act confronts the problem of water pollution on a number of different fronts. Its primary reliance, however, is on establishing restrictions on the types and amounts of pollutants discharged from various industrial, commercial, and public sources of wastewater.

Direct dischargers must comply with effluent limitations in National Pollutant Discharge Elimination System (NPDES) permits; indirect dischargers must comply with pretreatment standards. Effluent limitations in NPDES permits are derived from effluent limitations guidelines and new source performance standards promulgated by EPA, as well as from water quality standards. The effluent limitations guidelines and standards are established by regulation for categories of industrial dischargers and are based on the degree of control that can be achieved using various levels of pollution control technology.

Congress recognized that regulating only those sources that discharge effluent directly into the nation's waters would not be sufficient to achieve the CWA's goals. Consequently, the CWA requires EPA to promulgate nationally applicable pretreatment standards that restrict pollutant discharges from facilities that discharge wastewater indirectly through sewers flowing to publicly owned treatment works (POTWs). See section 307(b) and (c), 33 U.S.C. 1317(b) and (c). National pretreatment standards are established for those pollutants in wastewater from indirect dischargers that may pass through, interfere with or are otherwise incompatible with POTW operations. Generally, pretreatment standards are designed to ensure that wastewaters from direct and indirect industrial dischargers are subject to similar levels of treatment. In addition, POTWs are required to implement local treatment limits applicable to their industrial indirect dischargers to satisfy any local requirements. See 40 CFR 403.5.

1. Best Practicable Control Technology Currently Available (BPT)—Sec. 304(b)(1) of the CWA

EPA may promulgate BPT effluent limits for conventional, toxic, and non-conventional pollutants. For toxic pollutants, EPA typically regulates priority pollutants which consist of a specified list of toxic pollutants. In specifying BPT, EPA looks at a number of factors. EPA first considers the cost of achieving effluent reductions in relation to the effluent reduction benefits. The Agency also considers the age of the equipment and facilities, the processes employed, engineering aspects of the control technologies, any required process changes, non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator deems appropriate. See CWA 304(b)(1)(B). Traditionally, EPA establishes BPT effluent limitations based on the average of the best performances of facilities within the industry, grouped to reflect various ages, sizes, processes, or other common characteristics. Where, however, existing performance is uniformly inadequate, EPA may establish limitations based on higher levels of control than currently in place in an industrial category if the Agency determines that the technology is available in another category or subcategory, and can be practically applied.

2. Best Control Technology for Conventional Pollutants (BCT)—Sec. 304(b)(4) of the CWA

The 1977 amendments to the CWA required EPA to identify additional levels of effluent reduction for conventional pollutants associated with BCT technology for discharges from existing industrial point sources. In addition to other factors specified in section 304(b)(4)(B), the CWA requires that EPA establish BCT limitations after consideration of a two part ''cost-reasonableness'' test. EPA explained its methodology for the development of BCT limitations in July 1986 (51 FR 24974).

Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD_5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501).

3. Best Available Technology Economically Achievable (BAT)—Sec. 304(b)(2) of the CWA

In general, BAT effluent limitations guidelines represent the best economically achievable performance of facilities in the industrial subcategory or category. The CWA establishes BAT as a principal national means of controlling the direct discharge of toxic and nonconventional pollutants. The factors considered in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the process employed, potential process changes, and non-water quality environmental impacts including energy requirements, and such other factors as the Administrator deems appropriate. The Agency retains considerable

discretion in assigning the weight to be accorded these factors. An additional statutory factor considered in setting BAT is economic achievability. Generally, EPA determines economic achievability on the basis of total costs to the industry and the effect of compliance with BAT limitations on overall industry and subcategory financial conditions. As with BPT, where existing performance is uniformly inadequate, BAT may reflect a higher level of performance than is currently being achieved based on technology transferred from a different subcategory or category. BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice.

4. New Source Performance Standards (NSPS)—Sec. 306 of the CWA

New Source Performance Standards reflect effluent reductions that are achievable based on the best available demonstrated control technology. New facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the most stringent controls attainable through the application of the best available demonstrated control technology for all pollutants (that is, conventional, nonconventional, and priority pollutants). In establishing NSPS, EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

5. Pretreatment Standards for Existing Sources (PSES)—Sec. 307(b) of the CWA

Pretreatment Standards for Existing Sources are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTW). Categorical pretreatment standards are technology-based and are analogous to BAT effluent limitations guidelines.

The General Pretreatment Regulations, which set forth the framework for the implementation of categorical pretreatment standards, are found at 40 CFR part 403. These regulations establish pretreatment standards that apply to all non-domestic dischargers. See 52 FR 1586 (Jan. 14, 1987).

6. Pretreatment Standards for New Sources (PSNS)—Sec. 307(c) of the CWA

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources at the same time it promulgates new source performance standards. Such pretreatment standards must prevent the discharge of any pollutant into a POTW that may interfere with, pass through, or may otherwise be incompatible with the POTW. EPA promulgates categorical pretreatment standards for existing sources based principally on BAT technology for existing sources. EPA promulgates pretreatment standards for new sources based on best available demonstrated technology for new sources. New indirect dischargers have the opportunity to incorporate into their facilities the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating NSPS.

B. Section 304(m) Consent Decree

Section 304(m) requires EPA to publish a plan every two years that consists of three elements. First, under section 304(m)(1)(A), EPA is required to establish a schedule for the annual review and revision of existing effluent guidelines in accordance with section 304(b). Section 304(b) applies to effluent limitations guidelines for direct dischargers and requires EPA to revise such regulations as appropriate. Second, under Section 304(m)(1)(B), EPA must identify categories of sources discharging toxic or nonconventional pollutants for which EPA has not published BAT effluent limitations guidelines under 304(b)(2) or new source performance standards under section 306. Finally, under 304(m)(1)(C), EPA must establish a schedule for the promulgation of BAT and NSPS for the categories identified under subparagraph (B) not later than three years after being identified in the 304(m) plan. Section 304(m) does not apply to pretreatment standards for indirect dischargers, which EPA promulgates pursuant to Sections 307(b) and 307(c) of the Clean Water Act.

On October 30, 1989, Natural Resources Defense Council, Inc., and Public Citizen, Inc., filed an action against EPA in which they alleged, among other things, that EPA had failed to comply with CWA Section 304(m). Plaintiffs and EPA agreed to a settlement of that action in a consent decree entered on January 31, 1992. The consent decree, which has been modified several times, established a schedule by which EPA is to propose and take final action for eleven point source categories identified by name in the decree and for eight other point source categories identified only as new or revised rules, numbered 5 through 12. EPA selected the meat and poultry products industry as the subject for New or Revised Rule #11. Under the decree, as modified, the Administrator was required to sign a proposed rule for the meat and poultry products industry no later than January 30, 2002, and must take final action on that proposal no later than December 31, 2003.

III. Scope/Applicability of Proposed Regulation

EPA solicits comments on various issues specifically identified in the preamble as well as any other applicability issues that are not specifically addressed in today's notice. The following discussion of applicability begins with the proposed revisions to the existing subcategories. Section III.B presents the applicability for two new subcategories for poultry facilities.

A. Facilities Subject to 40 CFR Part 432

EPA is proposing new or revised effluent limitations guidelines and standards for nine of the ten subcategories of the meat and poultry products industry including: simple slaughterhouse, complex slaughterhouse, low processing packinghouse, high processing packinghouse, meat cutter, sausage and luncheon meats processor, ham processor, canned meats processor, and renderer. EPA is also proposing to change the name of the category since poultry processing facilities are covered by the proposed requirements. No new or revised effluent limitations guidelines or pretreatment standards are being proposed for the small processor category.

The technology options which serve as the basis for the proposed effluent limitations guidelines and standards for the meat subcategories are summarized in Table III.A–1. For descriptions and discussion of the subcategories, see Section VI; for the technologies, see Section VII.D; and for a discussion of the process wastewater generated by these subcategories, see Section VII.B.

TABLE III.A–1.—SUMMARY OF REVISIONS TO MEAT AND POULTRY PRODUCTS EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS

Subcategory	Regulatory level	Technology option [1]	Technical components [2]
Subpart A: Simple Slaughterhouse; Subpart B: Complex Slaughterhouse; Subpart C: Low-Processing Packinghouse; and Subpart D: High-Processing Packinghouse.	BPT	2	Equalization, dissolved air flotation, secondary biological treatment with nitrification.
	BAT; NSPS	3	Equalization, dissolved air flotation, secondary biological treatment with nitrification and denitrification.
	BCT	No Action	No revised limitations are proposed.
	PSES; PSNS	No Action	No pretreatment standards are proposed.
Subpart E: Small Processors	BPT; BCT; BAT; NSPS.	No Action	No revised limitations or standards are proposed.
	PSES;PSNS	No Action	No pretreatment standards are proposed.
Subpart F: Meat Cutter; Subpart G: Sausage and Luncheon Meats Processor; Subpart H: Ham Processor; and Subpart I: Canned Meats Processor.	BPT	2	Equalization, dissolved air flotation, secondary biological treatment with nitrification.
	BAT; NSPS	3	Equalization, dissolved air flotation, secondary biological treatment with nitrification and denitrification.
	BCT	No Action	No revised limitations are proposed.
	PSES; PSNS	No Action	No pretreatment standards are proposed.
Subpart J: Renderer	BPT; BCT	2	Equalization, dissolved air flotation, secondary biological treatment with nitrification.
	BAT; NSPS	2	Equalization, dissolved air flotation, secondary biological treatment with nitrification.
	PSES; PSNS	No Action	No pretreatment standards are proposed.

[1] See Section VII.D for a discussion of the technology options.
[2] See Section XI.C and XI.D for a discussion of the Agency's rationale on selecting options.

1. Meat (or Red Meat) Facilities

EPA established regulations which apply to the meat (or red meat) slaughterhouses and packinghouses (40 CFR part 432 subcategories A through D) in 1974. EPA established regulations which apply to meat further processing facilities (40 CFR part 432 subcategories E through I) in 1975. Although there is no definition of ''red meat'' or ''meat'' in the existing 40 CFR part 432 regulations, EPA defined these terms in the previous technical development documents associated with these prior rules as all animal products from cattle, calves, hogs, sheep, and lambs and any meat that is not listed under the definition of poultry. EPA is using the term ''meat'' as synonymous with the term ''red meat.'' EPA proposes to include a similar definition in the revised regulations (*see* Appendix A of this document).

The current regulations for meat cover all aspects of producing meat products from the slaughter of the animal to producing final consumer products (*e.g.* cooked, seasoned or smoked products, such as luncheon meat or hams.) For subparts F, G, H and I of the existing regulations, EPA established a production rate threshold of greater than 6,000 pounds of finished product per day, below which the regulations do not apply. Subpart E of the existing regulations (Small Processors) applies to meat further processors that produce up to 6,000 pounds of finished product per day.

EPA is not proposing to change the existing production rate thresholds in subparts E through I in this proposed rule for existing limitations and standards. Also, EPA is proposing new production rate thresholds in Subparts A through D and F through I for the proposed limitations and standards based on current data collected for this rulemaking (*see* Section III of the MPP Development Document). These new production rate thresholds do not affect subpart E (Small Processors) meat facilities as these proposed new production rate thresholds are all higher than the subpart E production rate threshold (i.e., 6,000 pounds of finished product per day). EPA defines the following facilities which are currently covered under 40 CFR part 432 as small:

- Facilities in Subcategories A, B, C and D that slaughter less than 50 million pounds (LWK) per year;
- All facilities in Subcategory E;
- Facilities in Subcategories F, G, H and I that produce less than 50 million pounds of finished product per year; and
- Facilities in Subcategory J that render less than 10 million pounds per year of raw material (*see* Section III.A.2).

EPA developed these new production rate thresholds based on current screener survey data available prior to proposal. EPA ordered the annual production screener survey data from highest to lowest annual production for each of the regulatory groupings (e.g., A–D, F–I, J, K, and L), then divided each of the regulatory groupings into four size classifications (e.g., small, medium, large, and very large) based on employment and annual production data. EPA performed this size classification task in order to more accurately estimate costs, loadings, NWQIs, and economic impacts of the proposed limitations and standards on this industry. That is, rather than assume one model facility for each of the five regulatory groupings, EPA used four model facilities for each of the five regulatory groupings for better accuracy in its analyses (*see* also MPP Development Document for further details on how these production based thresholds were developed). In evaluating the screener data related to facility annual production, several variables were identified. These were meat and poultry type processed, type of facility operation (*i.e.,* first processing (slaughtering), further processing, or rendering), number of facility employees, annual wastewater generation, and type of wastewater management (*e.g.,* direct discharger,

indirect discharger, land applied on site). Because EPA had only a limited amount of detailed information on facilities, the number of facility employees was selected as an indicator of facility size for modeling (e.g., costs, loads, economic impacts, NWQIs). EPA identified facilities with 100 employees or less as small and then identified the corresponding annual production thresholds. It is important to note for the purposes of estimating costs, loads, economic impacts and NWQIs, EPA used facility level employment data for developing one threshold between ''small'' and ''non-small'' facilities. The SBA size standard for these industries is 500 employees at the company level. EPA divided the remaining non-small facilities (i.e., medium, large, and very large) into equal thirds based on annual production.

EPA is using the results of the revised production rate thresholds to exclude most smaller MPP facilities from today's proposed revisions to 40 CFR part 432 because the technologies on which the options were based are not cost-effective for the facilities with the lowest production threshold (*i.e.,* the smallest facilities). However, these production based thresholds for the proposal are based on available screener survey data. A more detailed evaluation of these thresholds, along with the model facility identification will be made following evaluation of the detailed survey responses and may warrant a change in the production based thresholds. Most smaller MPP facilities are excluded from the scope of today's proposal for a number of reasons: (1) Small MPP facilities as group discharge less than 3% of the conventional pollutants (or 35 million lbs/year), 1% of the toxic pollutants (or 1.3 million lbs/year), 4% of the nutrients (or 7.5 million lbs/year), and less than 1.5% of the pathogens (or 47 x 10^9 CFU/year) as compared to all discharges from the entire MPP industry; (2) EPA determined that only a limited amount of loadings removal would be accomplished by improved treatment; and (3) EPA determined that ''small'' MPP facilities would discharge a very small portion of the total industry discharge. Therefore, EPA is not revising current limitations and standards for small meat facilities. The existing regulations, however, will continue to apply to those facilities. EPA is, however, setting limitations and standards for small poultry direct discharging facilities (for whom there are no existing standards) based on current performance (*see* Section III.B). As explained above, EPA's proposed definition of 'small' facility is based on the screener data available for this proposal. EPA will be re-evaluating this data in preparation for the NODA. EPA is also soliciting comment on alternative definitions of small facilities at higher production levels (representing facilities with more than 100 employees). A supplemental analysis in the record (Docket No. W–01–06, Record No. 25010) compares the alternative definitions in terms of costs, pollutant removals, and economic impacts on the affected facilities. For example, in Subpart K, there are no ''small'' facilities, as defined by EPA, whereas there are 35 medium facilities and 60 large and very large facilities (using currently available data). Thirty-one of the 35 facilities defined as ''medium'' facilities are owned by small businesses (defined as firms with less than 500 employees). EPA specifically is requesting comment on whether the medium facilities in the various Subparts should be included in the ''small'' facility category, particularly in Subpart K which has no ''small facilities.'' In assessing alternate small facility definitions, EPA shall consider the same factors discussed above (e.g. economic impact, small pollutant loadings, etc.) and requests comment on how alternative thresholds might be justified using these factors.

The existing regulations apply to all sizes of meat direct dischargers (except for renderers processing less than 75,000 pound raw material per day—*see* Section III.A.2). The revisions to 40 CFR part 432 being proposed today apply to meat facilities (*see* Section III.A.1) above the new production based thresholds and all poultry facilities that discharge directly to a receiving stream or other waters of the United States (*see* Section III.B for a discussion of poultry facilities).

2. Rendering

In 1975, EPA established regulations (40 CFR part 432, Subcategory J) which apply to independent renderers, defined as independent or off-site operations that manufacture meat meal, dried animal by-product residues (tankage), animal fats or oils, grease and tallow, perhaps including hide curing, by a renderer. The existing regulations establish a size threshold of 75,000 pounds of raw material per day processed. Facilities which process less than this amount are not subject to the existing regulations. EPA is proposing to lower this production threshold so that subpart J applies to facilities that render more than 10 million pounds per year of raw material (or approximately 27,000 pounds per day for a facility that operates 365 days per year). EPA is lowering this production threshold based on data collected for this rulemaking. See Section III.A.1 for a description of EPA's reasons for setting production thresholds and exempting most small MPP facilities (including small rendering facilities that render less than 10 million pounds per year of raw material) from today's revisions to 40 CFR part 432.

Subpart J applies to the rendering of any meat or poultry raw material. When rendering is done in conjunction with a meat slaughterhouse or packinghouse, the rendering wastewater is regulated under the limitations for the appropriate meat slaughtering or packinghouse subcategory (*i.e.,* under subpart A, B, C, or D).

B. Poultry Slaughtering and Further Processing Facilities

EPA is proposing to establish effluent limitations guidelines and new source performance standards for the poultry first processing (*i.e.* slaughtering) and further processing subcategories, and to revise the category title accordingly. Poultry includes broilers, other young chickens, hens, fowl, mature chickens, turkeys, capons, geese, ducks, exotic poultry (*e.g.,* ostriches), and small game such as quail, pheasants, and rabbits (*see* Appendix A of this document).

EPA proposed regulations for this segment of the meat and poultry products industry in 1975, but did not finalize them. EPA has reanalyzed this segment of the meat and poultry products industry and is proposing today to establish BPT, BCT, and BAT limitations for existing facilities and new source performance standards. EPA proposes to create two new subcategories which would apply to poultry processing facilities. The first new poultry subcategory is the ''poultry first processing'' subcategory which includes the slaughtering and evisceration of the bird or animal and dressing the carcass for shipment either whole or in parts, such as leg, quarters, breasts and boneless pieces. These facilities are commonly known as ''ice pack facilities.'' The second new poultry subcategory is the ''poultry further processing'' subcategory which includes additional preparation of the meat including further cutting, cooking, seasoning and smoking to produce ready to be eaten or reheated servings. The additions to 40 CFR part 432 for poultry being proposed today apply to facilities that discharge directly to a receiving stream and other waters of the United States. EPA is proposing to set less stringent effluent limitations guidelines for direct dischargers slaughtering up to 10 million pounds

per year than on facilities which slaughter over 10 million pounds per year and for further processors producing 7 million pounds per year than on facilities which produce over 7 million pounds per year. See Section III.A.1 for a description of EPA's reasons for setting production thresholds. The treatment options proposed for larger poultry slaughtering and further processing facilities are economically unachievable for small poultry slaughtering and further processing facilities. Rendering performed in conjunction with a poultry first processing facility would be subject to the appropriate regulations under the poultry slaughtering (Subpart K).

The technology options which serve as the basis for the proposed effluent limitations guidelines and standards being for the poultry portion of the industry are summarized in Table III.B–1. For descriptions and discussion of the subcategories, *see* Section VI.D; for the technologies, *see* Section VII.D; and for a discussion of the process wastewater generated by these subcategories, *see* section VII.B.

TABLE III.B–1.—SUMMARY OF REGULATORY OPTIONS FOR POULTRY FIRST AND FURTHER PROCESSORS

Subcategory	Regulatory level	Technology option[1]	Technical components[2]
Subpart K: Poultry First Processing (facilities which slaughter up to 10 million pounds per year); and, Subpart L: Poultry Further Processing (facilities which produce up to 7,000 pounds per year of finished product).	BPT; BCT	1	Equalization, dissolved air flotation, secondary biological treatment with less efficient nitrification.
	BAT; NSPS	1	Equalization, dissolved air flotation, secondary biological treatment with less efficient nitrification.
	PSES; PSNS ..	No Action	No pretreatment standards are proposed.
Subpart K: Poultry First Processing (facilities which slaughter more than 10 million pounds per year); and, Subpart L: Poultry Further Processing (facilities which produce more than 7,000 pounds per year of finished product).	BPT; BCT	3	Equalization, dissolved air flotation, secondary biological treatment with nitrification and denitrification.
	BAT; NSPS	3	Equalization, dissolved air flotation, secondary biological treatment with nitrification and denitirification.
	PSES; PSNS ..	No Action	No pretreatment standards are proposed.

[1] See Section VII.D for a discussion of the technology options.
[2] See Section XI.E for a discussion of the Agency's rationale on selecting options.

IV. Rulemaking History and Industry Profile

A. Meat Products Effluent Guideline Rulemaking History

The effluent limitations guidelines and standards for the meat products industry were developed and promulgated in the 1970's. The existing regulations for the meat slaughtering and processing subcategories and independent rendering were issued in phases and are grouped together under 40 CFR part 432.

EPA promulgated BPT, BAT, NSPS limitations and standards for existing and new meat slaughterhouses and packinghouses on February 28, 1974 (39 FR 7894). The 1974 regulation established effluent limitations and standards for existing and new sources for four types of meat slaughterhouses and packinghouses: Simple Slaughterhouse, Complex Slaughterhouse, Low Processing Packinghouse, and High Processing Packinghouse (40 CFR part 432, Subcategories A–D).

EPA promulgated BPT, BAT, NSPS limitations and standards for existing and new meat further processing subcategories and the independent rendering subcategory on January 3, 1975 (40 FR 902). The 1975 regulation established effluent limitations and standards for existing and new sources for six additional types of facilities: Small Processor, Meat Cutter, Sausage and Luncheon Meats Processor, Ham Processor, Canned Meats Processor, and Independent Renderer (40 CFR part 432, Subcategories E–J).

BCT limitations were promulgated on August 29, 1979 (44 FR 50732) for all meat subcategories and independent rendering (40 CFR part 432, Subcategories A–J).

EPA did not establish pretreatment standards (neither PSES nor PSNS) for any of meat subcategories and independent rendering (40 CFR part 432, Subcategories A–J) in the 1974 or 1975 regulations.

The BPT and BAT limitations established in the February 28, 1974 notice were the subject of litigation in *American Meat Institute* v. *EPA*, 526 F.2d 442 (7th Cir. 1975). The Seventh Circuit Court of Appeals reviewed the effluent limitations and remanded selected portions of those regulations. The BPT and BAT regulations remanded by the court were subsequently revised or withdrawn (*see* 44 FR 50732, August 29, 1979; 45 FR 82253, December 15, 1980).

The regulations in the independent rendering subcategory were also the subject of litigation in *National Renderers Association et al.,* v. *EPA, et al.,* 541 F. 2d 1281 (8th Cir. 1976). The Court remanded the regulations to the Agency to reconsider the economic impact of the costs associated with these requirements. The BAT limitations for independent renderers were not remanded, but EPA reevaluated these limitations nonetheless. On October 6, 1977 (42 FR 54417), EPA promulgated a final rule which revised the BAT limitations and new source performance standards for this subcategory. In that final rule, the BAT limitations for ammonia, BOD_5, and TSS are less stringent than the original BAT limitations; however, the NSPS are more stringent than the original NSPS standards. In the final rule, EPA retained an exclusion for small facilities (less than 75,000 pounds of raw material per day) from BPT, BAT, and NSPS.

EPA proposed BPT, BAT, NSPS, PSNS limitations and standards for existing and new poultry slaughterers and processors on April 24, 1975 (40 FR 18150). EPA proposed to subcategorize the poultry processing sector into five subcategories, distinguished by the animal or bird being processed and an additional subcategory which applied to further processing. These regulations were never finalized as the 1977

amendments to the Clean Water Act refocused the Agency's attention on establishing effluent limitations guidelines for industry sectors with effluents containing toxic metals and organics.

B. Industry Profile

The meat and poultry products industry includes facilities which slaughter livestock (e.g., cattle, calves, hogs, sheep and lambs) and/or poultry or process meat and/or poultry into products for further processing or sale to consumers. The industry is often described in terms of three categories: (1) Meat slaughtering and processing; (2) poultry slaughtering and processing; (3) and rendering. Facilities may perform slaughtering operations, processing operations from carcasses slaughtered at other facilities, or both. Companies that own meat or poultry product facilities may also own facilities that either raise the animals or further process the meat or poultry products into final consumer products. These other enterprises are not covered by the meat and poultry products industry effluent limitations guidelines.

Since the 1970's when EPA issued the existing regulations for meat and rendering industry sectors, the meat and poultry products industry has become increasingly concentrated or vertically integrated through alliances, acquisitions, mergers, and other relationships. This vertical integration is particularly pronounced in the broiler sector of the poultry industry. Most of the broiler and other chicken products which reach the consumer have been under the control of the same company from the hatching of the flocks through the processing of the birds. Vertical integration is not seen to the same extent in the meat sector, although there is increasing vertical integration, particularly in the hog sector.

The meat and poultry products industry encompasses four North American Industry Classification System (NAICS) codes which are developed by the Department of Commerce. These NAICS codes include: Animal Slaughtering (Except Poultry) (NAICS 311611); Meat Processed from Carcasses (NAICS 311612); Poultry Processing (NAICS 311615); and Rendering and Meat Byproduct Processing (NAICS 311613).

Animal Slaughtering (Except Poultry) (NAICS 311611), includes meat first processing facilities which slaughter cattle, hogs, sheep, lambs, calves, horses, goats, and exotic livestock (*e.g.,* elk, deer, buffalo) for human consumption. Slaughtering is the first step in the processing of meat animals into consumer products (*i.e.,* calves, hogs, sheep, and lambs). Slaughterhouse operations typically encompass the following steps: (1) Receiving and holding of live animals for slaughter; (2) stunning of animals prior to slaughter; (3) slaughter (exsanguination) of animals; and (4) initial processing of animals. Slaughterhouse facilities are designed to accommodate the multi-step process of slaughtering. In most slaughterhouses, the major steps are carried out in separate rooms.

In addition, many first processing facilities further process carcasses on-site and/or perform rendering operations. These facilities may also process meat products into prepared foods and feed ingredients for animals (except dog and cat food). Otherwise the carcasses are shipped to other facilities for further processing into finished products such as hams, sausages, ground meat, and canned products.

Based on the 1997 U.S. Census of Manufactures, the animal slaughtering industry sector includes 1,300 companies which operate approximately 1,400 facilities. The industry sector employs 142,000 people and generates a total value of shipments of $54 billion. Twelve States reported shipments in excess of $1 billion, with Texas, California, Illinois, Iowa and Wisconsin containing the largest number of slaughtering establishments (at least 60 establishments in each State). Nebraska ranks seventh in the number of facilities located in the State, but has the highest number of employees engaged in animal slaughtering of any State. Nebraska accounts for almost 17 percent of the value added and 16 percent of total shipments in this industry sector. Industry activity is most heavily concentrated in Nebraska, Kansas, Iowa and Texas.

The Animal Slaughtering sector is comprised of a large number of facilities (72 percent of the sector) which have fewer than twenty employees. These facilities employ less than 5 percent of the sector workforce and contribute an even smaller percentage of value added and value of shipments. Thirty-nine facilities employ between 1,000 and 2,500 employees and while comprising only 3 percent of the total number of establishments, provide 43 percent of the industry employment and 46 percent of the value of shipments.

Meat Processed from Carcasses (NAICS 311612) includes facilities engaged in processing or preserving meat and meat by-products (but not poultry or small game) from purchased meats. These facilities do not slaughter animals or perform any initial processing (*e.g.,* de-fleshing, de-feathering).

The meat further processing industry sector includes 1,164 companies, which own and operate about 1,300 facilities. This sector employs about 88,000 people, and the value of shipments is more than $25 billion, of which $9 billion is value added by manufacture.

California, Illinois, New York and Texas have the highest concentration of meat further processing facilities, each with more than 90 meat further processing facilities. However the highest levels of employment are found in Illinois, Pennsylvania, Texas and Wisconsin, which together generate one-third of the meat further processing employment. In Wisconsin more than half of the meat further processing facilities employ more than 20 workers, and the State also accounts for the largest share of both total shipments and value added in the industry.

As with the animal slaughtering sector, more than half of the meat further processing facilities employ fewer than 20 workers. The bulk of the employment (54 percent), value added (55 percent) and total shipments (57 percent) is accounted for by meat further processing facilities employing between 100 and 500 workers. The difference between the animal slaughtering sector and the meat further processing sector is that while the value of shipments in the animal slaughtering industry sector is heavily concentrated in the largest facilities, the value of shipments in the meat further processing sector is more evenly distributed across meat further processing facilities of all different sizes.

Poultry Processing (NAICS 311615) includes the slaughter of poultry, small game animals (*e.g.,* quails, pheasants, and rabbits), and exotic poultry (*e.g.,* ostriches) and the processing and preparing of these products and their byproducts. The 1997 U.S. Census of Manufactures reported 260 companies engaged in poultry slaughtering. These companies own or operate 470 facilities, employ 224,000 employees, and produces about $32 billion in value of shipments.

The poultry slaughtering sector has relatively few facilities with less than 20 employees but like the meat sectors it is dominated by a few very large facilities. Almost 50 percent of the sector employment and over 40 percent of the value of shipments were accounted for by 75 facilities which employ more than 1,000 workers each. Eighty percent of employment and 74 percent of total shipments are produced by facilities that employ more than 500 workers. Yet

these facilities comprise only 36 percent of the poultry processing industry.

Products produced by the poultry processing sector can be divided into two major categories: broilers and turkeys. Broilers comprise more than half of the industry's shipments. Processed poultry accounts for about 30 percent of this sectors shipments and turkey products accounts for about 12 percent.

Poultry processing is largely concentrated in the southeastern States with Arkansas and Georgia having the largest number of facilities, employment and value of shipments. Alabama and North Carolina rank third and fourth in all of these measures. California is the only State in the top ten poultry producing States which is not in the southeast. California ranks tenth in terms of employment and value of shipments and ranks eighth in number of facilities.

The Rendering and Meat Byproduct Processing (NAICS 311613) sector includes facilities engaged in the rendering of inedible stearin, grease, and tallow from animal fat, bones and meat scraps and the manufacturing of animal oils, including fish oil, and fish and animal meal. Many facilities not classified as rendering facilities perform rendering operations but are not classified as such because they are also engaged in slaughtering (these are often on-site rendering facilities that are part of an animal or poultry slaughtering facility).

The rendering sector consists of 137 companies that own or operate 240 facilities. The sector employs 8,800 workers and generates $2.6 billion in shipments. Texas and California have the largest number of rendering facilities. Unlike the meat or poultry industry sectors, the rendering industry sector includes few large facilities (*i.e.,* only 11 rendering facilities employed more than 100 workers per facility in 1997). The 132 rendering facilities which employ between 20 and 99 workers account for the largest share of the industry shipments (66 percent).

Because the meat and poultry products industry produces products for human consumption (with the exception of rendering), the industry as a whole is very conscious of cleanliness and hygiene. Meat and poultry processing facilities use disinfectants to clean and sanitize equipment between production. The industry reports avoiding the use of pesticides which could contaminate their products, although EPA sampling data did detect several pesticides in raw wastewaters. Water is a very important part of meat products manufacturing as meat products and meat product equipment require acceptable levels of cleanliness. The U.S. Department of Agriculture Food Safety and Inspection Service (USDA FSIS) is responsible for regulating and inspecting meat and poultry slaughtering and processing facilities and facilities engaged in edible rendering (*i.e.,* suitable for human consumption) to ensure food safety. The U.S. Food and Drug Administration (FDA) covers inedible rendering operations which produce products suitable for pet food, animal feed, chemical products, and fuel blending.

Water is used to clean the product, clean and sanitize the production equipment and as a transport mechanism for carrying the waste away from the production area. Water can also be used as a part of the process such as scalding birds to facilitate feather removal or chilling the animal or meat to reduce its temperature. The meat and poultry processing industry (excluding rendering) uses an estimated 150 billion gallons of water per year. The meat and poultry products industry ranks in the top third of all three digit SIC manufacturing sectors with regard to overall water consumption (Docket No. W–01–06, Record No. 10025).

Industry sources have estimated that the implementation of USDA's Hazard Analysis and Critical Control Points (HACCP) program has increased water usage by 20 to 25 percent (Docket No. W–01–06, Record No. 10021). USDA FSIS disagrees with industry's assertion that implementation of HACCP has necessarily required greater use of water (Docket No. W–01–06, Record No.10027). Furthermore, USDA FSIS asserts that its regulatory performance standards provide for numerous water reuse opportunities (*see* 9 CFR 416.2(g)).

Many facilities in the meat and poultry processing sector have employed water reuse programs for many years. Some large facilities even have installed onsite advanced wastewater treatment systems which treat facility effluent allowing this water to be reused for some applications within the facility. Other facilities have changed sanitation practices to reduce water use and effluence in general. For example, one independent renderer noted during an EPA site visit that his facility fully converted from a wet cleaning method to a dry cleaning method in the product shipment area in order to minimize water pollution (Docket No. W–01–06, Record No. 10042). EPA solicits comment on the potential of MPP facilities to reduce water consumption and new technologies or practices that can effectively reuse water.

The majority of facilities in the meat and poultry products industry are indirect dischargers (an estimated 5,298 facilities). There are an estimated 359 facilities which discharge directly to waters of the U.S. and 242 of these are larger facilities which often will have a variety of further processing operations on-site. There are 1,113 facilities which report storing water in on-site lagoons or land applying their wastewater (*see* MPP Development Document).

The untreated wastewater contains high concentrations of BOD_5, TSS, oil and grease, pathogens, especially fecal coliforms and nutrients, including nitrogen (including ammonia) and phosphorus. EPA's sampling data collected from meat and poultry products facilities found treatable concentrations of some metals (*e.g.,* copper and zinc). Some of these metals are fed to the animals as feed additives, which therefore is assumed to be the source for these pollutants in the wastewater.

Treatment for meat and poultry processing wastewater varies depending on whether the facility is a direct or indirect discharger. Direct dischargers generally have biological treatment-in-place; most facilities use a combination of anaerobic and aerobic treatment, they also have nitrification to reduce ammonia concentrations in the effluent. Some facilities have denitrification to reduce nitrogen (nitrate) concentrations, although some facilities have a polishing filter to achieve additional reductions of other suspended pollutants. All facilities use some form of disinfection (*e.g.,* chlorine contact tank, ultraviolet radiation) to destroy or render pathogens inactive. Dissolved Air Flotation (DAF) is also commonly used to reduce oil and grease prior to the biological treatment. The indirect dischargers are mostly removing solids from their effluent through the use of screens or settling basins. Many of the indirect discharge facilities surveyed also report using an equalization basin and DAF to reduce the oil and grease concentrations in their effluent. Industry representatives have indicated that facilities avoid adding flocculants or treatment aids to their wastewaters prior to DAF or settling, because these additives prevent them from sending the sludge to a renderer. EPA identified that raw materials with high concentrations of ferric chloride are also often rejected by independent renderers due to their corrosive nature. EPA solicits comment on other types of flocculants or treatment aids and their concentrations that are commonly not accepted by independent renderers.

EPA also examined the impact of different religious meat and poultry production (*e.g.,* kosher, halal, Buddhist) on raw wastewater characteristics in terms of wastewater flow and pollutant concentrations (Docket No. W–01–06, Record No.10028; Record No. 10029). EPA identified that kosher and halal poultry producers pack the birds (inside and out) in salt for one hour to absorb any residual blood or juices. The birds are then rinsed and shipped to kosher/halal meat distributers. An industry representative reported that on an average day a kosher poultry facility would use 80,000 pounds of salt in their operations with a wastewater generation of approximately 2 million gallons wastewater per day. The industry representative stated that the use of salt makes the kosher poultry wastewaters very different from non-kosher poultry wastewaters with kosher poultry wastewaters having an increased total dissolved solids (TDS) concentration. The industry representative also stated that most kosher operations (meat and poultry) are located in urban areas with sewer connections. EPA also identified that Buddhist and Confucian poultry facilities probably do not exhibit wastewater characteristics that differ from non-religious poultry facilities (Docket No. W–01–06, Record No. 10029). Finally, industry representatives identified that there should be no differences, other than salt content, in MPP wastewater characteristics between kosher or halal and other meat facilities because the main difference between religious and non-religious meat production is the method of slaughter (exsanguination) (Docket No. W–01–06, Record No. Record No. 10031). EPA solicits comment on any other differences in production and wastewater generation and characteristics between non-religious and religious meat and poultry facilities.

V. Summary of Data Collection

A. Secondary Sources of Data and Information

The Agency evaluated the following databases online to locate data and information to support regulatory development: The Agency's PCS database, USDA's Food Safety and Inspection Service's HACCP Databases, USDA's Packers and Stockyards Statistical Report, SEC's EDGAR Database, the 1997 U.S. Census of Manufactures, Dun & Bradstreet Million Dollar Directory and Hoover's database. In addition, the Agency conducted a thorough collection and review of secondary sources, which include data, reports, and analyses published by government agencies; reports and analyses published by the meat and poultry products industry and its associated organizations; and publicly available financial information compiled by both government and private organizations.

EPA used the listings of beef processing facilities from Cattle-Fax, the National Cattlemen's Beef Association, Iowa State University, and North Dakota State University to identify the location of individual beef slaughtering facilities, their parent corporation, and, in some cases, the operational capacity of the individual facility. EPA used the National Pork Producers Council publication to identify the location of hog slaughtering facilities, the name of their parent corporation, and the operational capacity of the facility. EPA used WATT PoultryUSA's publications to locate individual poultry slaughtering facilities, the types of processes at those facilities, and the name of their parent corporation. EPA consulted the American Meat Institute, the National Renderers Association and the U.S. Poultry & Egg Association for lists of all member companies and facilities. The Urner Barry Meat and Poultry Directory 2000 provided information on location, parent company, and types of processes at the facility for all three sectors (Docket No. W–01–06, Record No. 25001).

The documents cited above were all used by EPA in developing the industry profile, a survey sampling frame, and for stratifying the survey sampling frame. In addition to these publications, EPA examined many other documents that provided useful overviews and analysis of the meat processing industry. EPA also conducted general Internet searches by company name.

B. Industry Surveys

EPA developed two survey questionnaires to collect site-specific technical and economic information as the above mentioned sources of information did not have sufficiently detailed technical and economic information required for the development of regulatory options.

EPA published a notice in the **Federal Register** on May 1, 2000 (65 FR 25325) announcing the Agency's intent to submit the meat and poultry products industry Survey Information Collection Request (ICR) to OMB. The May 1, 2000 notice requested comment on the draft ICR and the survey questionnaires. EPA received five sets of comments during the 60 day public comment period. Commentors on the ICR included: National Chicken Council, National Renderers Association, American Meat Institute, BCR Foods, and U.S. Poultry and Egg Association. EPA made minor clarifying revisions to the survey methodology and questionnaires as a result of public comments.

EPA made every reasonable attempt to ensure that the meat and poultry products industry ICR did not request data and information currently available through less burdensome mechanisms. Prior to publishing the May 1, 2000 notice, EPA met with and distributed draft copies of the survey questionnaires to three trade associations representing the meat and poultry products industry (American Meat Institute, National Chicken Council, National Renderers Association). EPA obtained approval from OMB for the use and distribution of two survey questionnaires: a short screener survey and a more detailed survey.

1. Description of the Surveys

In February 2001, EPA mailed a short screener survey, entitled ''2001 Meat Products Industry Screener Survey'' to 1,650 meat and poultry products facilities. A copy of the screener is included in the record (Docket No. W–01–06, Record No. 00178). The screener survey consisted of seven questions that elicited site-specific information such as type of animal processed and processing operation, wastewater disposal method, and the number of full-time employees at the site and company. EPA used the information collected from the screener survey to describe industry operations, wastewater generation rates, and wastewater disposal practices. EPA also used the responses to the site employment question for classifying each facility as small or not-small according to the Small Business Administration regulations at 13 CFR part 121.

EPA designed the second survey to collect detailed site-specific technical and financial information. In March 2001, EPA mailed the second survey, entitled ''2001 Meat Products Industry Survey,'' to 350 meat and poultry products facilities. A copy of the detailed survey is included in the record (Docket No. W–01–06, Record No. 00179). The detailed survey is divided into five parts. The first four parts collect general facility and technical data. The first set of questions request general facility site information. The general facility information questions asked the site to identify itself, characterize itself by certain parameters (including meat and poultry products operations, age, and location), and confirm that it was engaged in meat and/or poultry processing operations.

Respondents also indicated whether they use trisodium phosphate (TSP) as a biocide. Substituting other non-phosphorus based biocides with TSP has the potential to lower overall phosphorus concentrations in the raw wastewater and treated effluent. The second set of questions requested analytical and production data including: (1) Detailed daily analytical and flow rate data for selected sampling points; (2) monthly production data; and (3) operating hours for selected manufacturing operations. Survey respondents were required to provide already obtained sampling data and information. The Agency used the analytical data to estimate baseline pollutant loadings and pollutant removals from facilities with treatment-in-place resembling projected regulatory options and to evaluate the variability associated with meat and poultry products industry discharges. The Agency used the production data collected to evaluate the production basis for applying today's proposed rule in NPDES permits.

The next two sections focus on wastewater characteristics and current treatment practices, respectively. Questions regarding wastewater and treatment were designed to gather: (1) Information on the wastewater treatment systems (including diagrams) and discharge flow rates; (2) analytical monitoring data; and (3) operating and maintenance cost data (including treatment chemical usage). The outfall information questions covered permit information such as: (1) Discharge location; (2) wastewater sources to the outfall; (3) flow rates; (4) regulated parameters and limits; and (5) permit monitoring data. The Agency used this information to calculate the effluent limitations guidelines and standards and pollutant loadings associated with the regulatory options that EPA considered for this proposal. The Agency also used data received in response to these questions to identify treatment technologies in place, to determine the feasibility of regulatory options and potential future subcategorization of the meat and poultry products industry, and to estimate compliance costs, the pollutant reductions associated with the likely technology-based options, and potential environmental impacts associated with the regulatory options EPA considered for this proposal.

The fifth part of the detailed survey elicited site-specific financial and economic data. EPA used this information to characterize the economic status of the industry and to estimate potential economic impacts of wastewater regulations. The financial and economic information collected in the survey was necessary to complete the economic analysis of the proposed effluent limitations guidelines and standards for the meat and poultry products industry. EPA requested financial and economic information for the fiscal years ending 1997, 1998, and 1999— the most recent years for which data are available.

2. Development of Survey Mailing List

EPA sent the two meat and poultry products industry survey questionnaires to a random sample of facilities from the USDA Food Safety and Inspection Service (FSIS) Hazard Analysis and Critical Control Points (HACCP) database and a list of renderers provided by the National Renderers Association (NRA). The HACCP database provided a list of 7,981 federally or State-inspected meat and poultry facilities. The HACCP database is dated March 9, 2000 for the federally inspected facilities and May 10, 2000 for the State-inspected facilities. The entire HACCP database is classified into Large, Small, and Very Small facilities, corresponding to more than 500 employees, 10–500 employees, and less than 10 employees at the facility level, respectively. The 236 renderers from the NRA list were not classified by size. The Urner Barry Meat and Poultry Directory 2000 identified production information (i.e., whether a facility was a slaughterer or further processor) for at least 240 of the 292 large facilities (82 percent) and 1,120 of the 2,381 small facilities (47 percent). No such information was available for the remaining large and small facilities or for any of the 5,308 very small facilities.

3. Sample Selection

EPA grouped the facilities into seven strata by the size and the type of meat and poultry processing operation that takes place in each facility so that each stratum would encompass facilities with similar operations. This grouping (also known as stratification) increases precision (reducing one source of uncertainty) for estimates of costs, benefits and other quantities. Table V.B–1 lists the stratification of the meat and poultry products industry which is based on employment and other information from USDA's HACCP program, Urner Barry Meat and Poultry Directory 2000, and the National Renderers Association.

TABLE V.B–1.—MEAT AND POULTRY PRODUCTS INDUSTRY STRATA

Stratum (No. of employees)	Number of facilities in stratum	Screener survey sample size	Detailed survey sample size
Certainty	65	0	65
Large Processor (≥500)	43	31	3
Large Slaughterer (≥500)	190	100	52
Small Processor (10–499)	1,878	688	62
Small Slaughterer (10–499)	498	130	69
Very Small Processor (<10)	5,308	649	57
Renderer	235	52	42
Total	8,217	1,650	350

Various meat and poultry processors were randomly selected within each grouping. EPA weighted each survey response to account for facilities not surveyed and to develop national estimates from the survey responses. EPA deliberately selected the 65 ''certainty'' facilities to obtain site-specific information on the top producers for all types of meat and poultry products as well as facilities identified as good performers by State and Regional environmental personnel. EPA focused much of its analysis on the characteristics of larger facilities because indirect and direct small facilities as a group (*see* Section III.A.1 for descriptions of ''small facilities'') discharge less than 3% of the conventional pollutants, 1% of the toxic pollutants, 4% of the nutrients, and less

than 1.5% of the pathogens as compared to all discharges from all indirect and direct MPP facilities. Moreover, most of these small facilities are discharging small volumes of wastewater into large urban POTW systems which process significantly higher wastewater volumes, which helps minimize impacts. Thus, there is minimal impact on POTW operations or the passing of MPP pollutants of concern through POTWs into waters of the United States. Consequently, larger facilities were oversampled in the sample design. The oversampling rate is approximately 6:3:1, meaning that the large facilities were sampled at 6 times the rate of the very small facilities, and the small facilities at 3 times the rate of the very small. In addition, many of the very small facilities were not eligible for the survey as they were no longer in operation.

4. Survey Response

Of the 8,217 meat and poultry products facilities generating wastewater, 2,000 facilities were mailed either a detailed survey or a screener survey. As of October 4, 2001, 1,365 of the 1,650 screener surveys and 300 of the 350 detailed surveys were returned to EPA. EPA used 961 of the screener surveys (those received before April 24, 2001) and 241 of the detailed surveys (those received before May 29, 2001) for the development of regulatory options. EPA chose the cut-off dates in order to process, synthesize, and analyze the collected data and develop regulatory options in a timely fashion and still use as much data as possible. EPA will use all surveys, including those collected after the deadlines, in upcoming analyses for the forthcoming Notice of Data Availability (NODA) and final rule.

C. Site Visits and Wastewater Sampling

During 2000 and 2001, EPA conducted site visits at 15 MPP facilities. Six of these site visits were conducted at meat facilities, seven at poultry facilities, and two at rendering-only facilities. The purposes of these site visits were to: (1) Collect information on meat and poultry processing operations; (2) collect information on wastewater generation and waste management practices used by the MPP facilities; and (3) evaluate each facility as a candidate for multi-day sampling. In addition, EPA conducted limited sampling during several of the site visits to screen for potential contaminants that may be found in wastewaters from the different types of meat and poultry processing operations.

In selecting candidates for site visits, EPA attempted to identify facilities representative of various MPP processing operations, as well as both direct and indirect dischargers. EPA specifically considered the type of meat and poultry processing operations, age of the facility, size of facility (in terms of production), wastewater treatment processes employed, and best management practices/pollution prevention techniques used. EPA also solicited recommendations for good-performing facilities (e.g. facilities with advanced wastewater treatment technologies) from EPA Regional offices and State agencies. The site-specific selection criteria are discussed in site visit reports prepared for each site visited by EPA (Docket No. W–01–06, Record No.00156).

During each site visit, EPA collected information on the facility and its operations, including: (1) General production data and information; (2) the types of meat and poultry processing wastewaters generated and treated on-site; (3) water source and use; (4) wastewater treatment and disposal operations; (5) potential sampling locations for wastewater (raw influent, within the treatment system, and final effluent); and (6) other information necessary for developing a sampling plan for possible multi-day sampling episodes. EPA also collected wastewater samples of influent and effluent at 7 of the 15 facilities for screening purposes only.

Based on data collected from the site visits, EPA selected 11 facilities for multi-day sampling. The purpose of the multi-day sampling was to characterize pollutants in raw wastewaters prior to treatment as well as document wastewater treatment plant performance (including selected unit processes). Selection of facilities for multi-day sampling was based on an analysis of information collected during the site visits as well as the following criteria:

- The facility performed meat and/or poultry slaughtering and/or further processing operations representative of MPP facilities;
- The facility utilized in-process treatment and/or end-of-pipe treatment technologies that EPA was considering for technology option selection; and
- Compliance monitoring data for the facility indicated that it was among the better performing treatment systems or that it employed wastewater treatment process for which EPA sought data for option selection.

Multi-day sampling occurred at six meat facilities and five poultry facilities. EPA performed multi-day sampling at two facilities, and nine facilities performed the multi-day sampling on behalf of EPA. For the nine facilities that performed the sampling, EPA developed sampling plans that detailed the procedures for sample collection, including the pollutants to be sampled, location of sampling points, and sample collection, preservation, and shipment techniques. EPA assisted the nine facilities as necessary (e.g., provided sample bottle labels, provided assistance in shipping, and in one instance, provided on-site contractor support during the sampling event).

During each multi-day sampling episode, facility influent and effluent wastestreams were sampled. EPA did not collect source water information but will collect additional source water data after proposal. EPA will use the post-proposal source water data to better characterize wastewater characteristics for each of the facilities sampled. At some facilities, samples were also collected at intermediate points throughout the wastewater treatment system to assess the performance of individual treatment units. Some of the facilities chosen for sampling perform rendering and/or further processing operations in addition to meat and/or poultry processing. For facilities that also performed rendering operations or further processing, wastewater from the rendering and/or further processing operations was sampled separately, when possible.

Sampling episodes were conducted over either a 3-day or 5-day period. Samples were obtained using a combination of 24-hour composite and grab samples, depending upon the pollutant parameter to be analyzed. Depending on the type of wastewater processed and the treatment technology being evaluated, EPA analyzed wastewater for up to 53 parameters including conventional (BOD_5, TSS, oil and grease, fecal coliforms, and pH), toxic (selected metals and pesticides), and nonconventional (e.g., nutrients, microbiologicals) pollutants. When possible for a given parameter, EPA collected 24-hour composite samples in order to capture the variability in the waste streams generated throughout the day (e.g. production wastewater versus clean-up wastewater.)

Data collected from the influent samples contributed to characterization of the industry, development of the list of pollutants of concern, and development of raw wastewater characteristics. EPA used the data collected from the influent, intermediate, and effluent points to analyze the efficacy of treatment at the facilities, and to develop current discharge concentrations, loadings, and

the treatment technology options for the meat and poultry products industry. EPA used effluent data to calculate the long-term averages (LTAs) and limitations for each of the proposed regulatory options. EPA also used industry-provided data from the MPP Survey to complement the sampling data for these calculations. During each sampling episode, EPA also collected flow rate data corresponding to each sample collected and production information from each associated manufacturing operation for use in calculating pollutant loadings and production-normalized flow rates. EPA has included in the public record all information collected for which the facility has not asserted a claim of Confidential Business Information (CBI) or which would indirectly reveal information claimed to be CBI.

EPA used the site visit reports to prepare multi-day sampling and analysis plans (SAPs) for each facility that would undergo multi-day sampling. The Agency collected the following types of information during each sampling episode:

- Dates and times of sample collection;
- Flow data corresponding to each sample;
- Production data corresponding to each sample;
- Design and operating parameters for source reduction, recycling, and treatment; technologies characterized during sampling;
- Information about site operations that had changed since the site visit or that were not included in the Site visit report; and
- Temperature, pH, and dissolved oxygen (DO) of the sampled wastestreams.

After the conclusion of the sampling episodes, EPA prepared sampling episode reports for each facility which included descriptions of the wastewater treatment processes, sampling procedures, and analytical results. EPA documented all data collected during sampling episodes in the sampling episode report for each sampled site which are located in the MPP Administrative Record. Non-confidential business information from these reports is available in the public record for this proposal. For detailed information on sampling and preservation procedures, analytical methods, and quality assurance/quality control procedures see the MPP Development Document for today's proposed rule.

D. Pollutants Sampled and Analytical Methods

The Agency (or facilities, as directed by the Agency) collected, preserved, and transported all samples according to EPA protocols as specified in EPA's Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants and in the MPP QAPP.

EPA collected composite samples for most parameters because the Agency expected the wastewater composition to vary over the course of a day. The Agency collected grab samples from unit operations for oil and grease and microbiologicals. Composite samples were collected either manually or by using an automated sampler. Individual aliquots for the composite samples were collected at a minimum of once every four hours over each 24-hour period. Oil and grease samples were collected every four hours and microbiologicals were collected once a day.

Table V.D–1 lists the parameters sampled at the majority of the facilities, some of which have not been identified as pollutants of concern.

Table V.D–1. MPP Sampled Parameters

Biochemical oxygen demand (BOD_5)
Carbonaceous biochemical oxygen demand ($CBOD_5$)
Dissolved biochemical oxygen demand ($DBOD_5$)
Chemical oxygen demand (COD)
Total organic carbon (TOC)
Total suspended solids (TSS)
Total dissolved solids (TDS)
Total volatile solids (TVS)
Chloride
Total residual chlorine (TRC)
Ammonia as nitrogen
Nitrate/nitrite
Total Kjeldahl nitrogen (TKN)
Total phosphorus (TP)
Total dissolved phosphorus (TDP)
Orthophosphate
Oil and grease
Metals (e.g., arsenic, chromium, copper, mercury, zinc)
Carbamate pesticide (carbaryl)
Permethrin (cis-and trans-)
Malathion
Stirofos
Dichlorvos
Total coliform
Fecal coliform
Escherichia coli
Fecal streptococci
Salmonella
Aeromonas
Cryptosporidium (meat facilities only)

All wastewater sample analyses, except for the field measurements of temperature, dissolved oxygen, and pH were completed by EPA contract laboratories. EPA or facility staff collected field measurements of temperature, dissolved oxygen, and pH at the sampling site. The analytical chemistry methods used, as well as the sample volume requirements, detection limits, and holding times, were consistent with the laboratory's quality assurance and quality control plan. Laboratories contracted for MPP sample analysis followed EPA approved analysis methods for all parameters.

The EPA contract laboratories reported data on their standard report sheet and submitted them to EPA's sample control center (SCC). The SCC reviewed the report sheets for completeness and reasonableness. EPA reviewed all reports from the laboratory to verify that the data were consistent with requirements, reported in the proper units, and the data are in compliance with the applicable protocol.

Quality control measures used in performing all analyses complied with the guidelines specified in the analytical methods and in the MPP Quality Assurance Project Plan (QAPP). EPA reviewed all analytical data to ensure that these measures were followed and that the resulting data were within the QAPP-specified acceptance criteria for accuracy and precision.

Section 304(h) of the Clean Water Act directs EPA to promulgate guidelines establishing test procedures (methods) for the analysis of pollutants. These methods allow the analyst to determine the presence and concentration of pollutants in wastewater, and are used for compliance monitoring and for filing applications for the NPDES program under 40 CFR 122.21, 122.41, 122.44, and 123.25, and for the implementation of the pretreatment standards under 40 CFR 403.10 and 403.12. To date, EPA has promulgated methods for all conventional and toxic pollutants and for several nonconventional pollutants. Table 1–B at 40 CFR 136.3 lists the analytical methods approved for four of the five conventional pollutants and Table 1–A at 40 CFR 136.3 lists the fifth, fecal coliform. Part 136 also sets forth the analytical methods for toxic pollutants. EPA has listed, pursuant to Section 307(a)(1) of the Act, 65 metals and organic pollutants and classes of pollutants as ''toxic pollutants'' at 40 CFR 401.15. From the list of 65 classes of toxic pollutants, EPA identified a list of 126 ''Priority Pollutants.'' This list of Priority Pollutants is shown at 40 CFR part 423, appendix A. The list includes non-pesticide organic pollutants, metal pollutants, cyanides, asbestos, and pesticide pollutants.

Currently approved methods for metals and cyanides are included in the table of approved inorganic test procedures at 40 CFR 136.3, Table I–B. Table I–C at 40 CFR 136.3 lists approved methods for measurement of non-pesticide organic pollutants, and Table I–D lists approved methods for the toxic pesticide pollutants and for other pesticide pollutants. Direct and indirect dischargers must use the test methods approved under 40 CFR 136.3, where available, to monitor pollutant discharges from the meat and poultry products industry, unless specified otherwise in part 432 or by the permitting authority. See 40 CFR 401.13 and 403.12(b)(5)(vi). Sometimes, methods in part 136 apply to only waste streams from specified point source categories. For pollutants with no methods approved under 40 CFR part 136, the discharger must use the test procedure specified in the permit or, in the case of indirect dischargers, other validated methods or applicable procedures. See 40 CFR 122.44(i)(1)(iv) and 403.12(b)(5)(vi).

Table V.D–2 provides a list of analytes from EPA MPP sampling that were analyzed by methods that were not approved at 40 CFR part 136.

TABLE V.D–2: METHODS FOR MPP ANALYTES NOT APPROVED AT 40 CFR PART 136

Analyte	Method	Frequency
Chloride	300.0	77 samples out of 217 samples.
Nitrate/Nitrite	300.0	62 samples out of 217 samples.
Total Orthophosphate	300.0	77 samples out of 217 samples.
Carbaryl	632	all samples.
Dichlorvos	1657	all samples.
Malathion	1657	all samples.
Tetrachlorvinphos (stirofos)	1657	all samples.
cis-Permethrin	1660	all samples.
trans-Permethrin	1660	all samples.
E. coli	9221F	all samples.
Aeromonas	9260L	all samples.
Salmonella	FDA–BAM	all samples.
Metals	1620	all samples.

The use of Method 300.0 for chloride, nitrate/nitrite, and total orthophosphate was necessary because the analytical methods normally used for these analytes are subject to interferences such as color, turbidity, and/or particulates. These interferences were sometimes present in the samples, given the difficult matrices associated with the meat and poultry products industry (samples that contain blood, animal tissue, and/or other particulates). Laboratories used Method 300.0 for those samples that contained the interferents, which were a subset of the samples collected, as shown in the table above under the ''Frequency'' column.

The pesticides carbaryl, cis-permethrin, trans-permethrin, dichlorvos, and tetrachlorvinphos (stirofos) are not included in Table 1D-List of Approved Test Procedures for Pesticides at 40 CFR Part 136. Therefore, there are no 40 CFR Part 136-approved methods for these analytes. However, the methods are approved for compliance monitoring of these pollutants in the Pesticide Chemicals Point Source Category (*see* Table 7 in 40 CFR part 455). [Note: Method 1660 is approved for permethrin; however, cis-permethrin and trans-permethrin are structurally similar to permethrin.] There is one approved method for malathion at 40 CFR part 136: Standard Method 6630C. EPA Method 1657 was selected for analysis of malathion instead, for a couple of reasons, including:

- EPA 1600-series methods were developed specifically for the effluent guidelines program; therefore, they have more stringent quality control requirements than Standard Methods; and
- Method 1657 is approved for compliance monitoring of malathion in the pesticide chemical point source category (see Table 7 in 40 CFR part 455).
- Two other parameters were analyzed using EPA Method 1657 in addition to malathion [dichlorvos and tetrachlorvinphos (stirofos)]. Performance of one method for three analytes was the most economical approach.

The biological parameters *E.coli,* Aeromonas, and *Salmonella* are not listed at 40 CFR part 136. Therefore, there are no 40 CFR part 136-approved methods for these analytes, however, EPA proposed methods for *E.coli* on August 30, 2001 (66 FR 169, pages 45811–45829). Metals were analyzed using EPA Method 1620 because this method was developed specifically for the effluent guidelines program and contains more stringent quality control requirements than other 40 CFR part 136-approved methods.

E. Other Data Collection

EPA conducted a number of other data collection efforts to supplement information gathered through the survey process, facility sampling activities, site visits, and meetings with industry experts and the general public. The main purpose of these other data collection efforts was to obtain information on documented environmental impacts of meat and poultry processing industry facilities, additional data on animal processing waste characteristics, pollution prevention practices, wastewater treatment technology innovation, and facility management practices. These other data collection activities included a literature search, a review of current NPDES permits, and NPDES Discharge Monitoring Reports.

1. Literature Search on Environmental Impacts

EPA conducted a literature search to obtain information on various aspects of the animal processing industry, including documented environmental impacts, wastewater treatment technology, waste generation and facility management, and pollution prevention. EPA performed extensive internet and library searches for applicable information. The Agency used the resources of its own environmental library and the U.S. Department of Agriculture's National Research Library to obtain technical articles on environmental issues relating to the animal processing industry. Several university libraries and industry experts were also consulted during the literature search. As a result, EPA was able to compile a list of environmental impacts associated with the meat and

poultry processing industry. The scope of the literature search included government reports of permit violations and any associated environmental impacts. EPA also compiled technical studies on innovative treatment technologies for meat and poultry processing wastewater. EPA has included a summary of the case studies in the public docket (Docket No. W–01–06, Record No. 00167) associated with today's proposal. The primary sources for the case studies include newspaper and technical journal articles, government reports, and papers included in industry and academic conference proceedings.

2. Current NPDES Permits

EPA extracted information from the Agency's Permit Compliance System (PCS) to identify meat and poultry processing industry point source dischargers with NPDES permits. This initial extraction was performed by searching the PCS using reported Standard Industrial Classification (SIC) codes used to describe the primary activities occurring at the site. Specifically, the following SIC Codes were used:

- 2011 Meat Packing Facilities.
- 2013 Sausages and Other Prepared Meats.
- 2015 Poultry Slaughtering and Processing.
- 2077 Animal and Marine Fats and Oils.

EPA identified 359 active meat and poultry product facilities with NPDES permits in the PCS database. The PCS estimate of MPP direct dischargers is approximately equivalent to the screener survey estimate of direct dischargers. EPA will refine its estimates of direct dischargers to incorporate information from both the PCS database and the screener survey.

EPA selected a sample from this universe of dischargers. The Agency then reviewed NPDES permits and permit applications to obtain information on treatment technologies and wastewater characteristics for each of the animal processing and rendering sectors. EPA used this information as part of its initial screening process to identify the universe of processing facilities that would be covered under the proposal. In addition, this information was used to better define the scope of the information collection requests and to supplement other information collected on meat and poultry processing waste management practices.

3. Discharge Monitoring Reports

In addition, the Agency collected long-term effluent data from facility Discharge Monitoring Reports (DMRs) via the PCS database in an effort to perform a ''real world'' check on the achievability of today's proposed limits. DMRs summarize the quality and volume of wastewater discharged from a facility under a National Pollution Discharge Elimination System (NPDES) permit. DMRs are critical for monitoring compliance with NPDES permit provisions and for generating national trends on Clean Water Act compliance. DMRs may be submitted monthly, quarterly, or annually depending on the requirements of the NPDES permit.

EPA extracted discharge data and permit limits from these DMRs (via the PCS database) and from the MPP surveys to help identify regulated pollutants, to identify better performing facilities, and to set limitations in a few cases where sampling data was not available. Specifically, EPA identified the amount of discharged ammonia in relation to the respective permit limits. EPA conducted this analysis in part to identify potential facilities for future sampling as well as to assist in identifying a selection of facilities for the certainty component of the detailed survey exercise, and limitations were set for TSS, Oil and Grease(HEM) and COD based on DMR data from the MPP surveys.

EPA was able to collect DMR information on a total of 176 facilities from four MPP sectors: 77 meat packing facilities; 17 facilities producing sausages and other prepared meat products; 65 poultry slaughtering and processing facilities; and 17 animal and marine fat and oils facilities. EPA collected 31,311 data points on 83 separate pollutant parameters.

Indirect dischargers file compliance monitoring reports with their control authority (e.g., POTW) at least twice per year as required under the General Pretreatment Standards (40 CFR 403) while direct dischargers file discharge monitoring reports with their permitting authority at least once per year. EPA did not collect compliance monitoring reports for MPP facilities that are indirect dischargers as: (1) A vast majority of MPP indirect dischargers are small facilities (i.e., small volumes of wastewater); and (2) this information is less centralized and harder to collect.

Because DMR and indirect discharger compliance monitoring reports do not provide information about processes and production, EPA was not able to use these data directly in calculating the limitations and standards. Instead, in the detailed survey, EPA requested that facilities provide the individual daily measurements from their monitoring (for DMR or the control authority) with detailed information about their treatment systems and processes. After further evaluation of the detailed surveys, EPA intends to use the self-monitoring data corresponding to the proposed treatment options to calculate the final limits and to reassess the achievability of the limits by well-operated BAT systems. In cases where EPA determines that improved system operation will allow the limits to be consistently achieved it will include additional treatment costs for the facility in its cost estimations for the final rule where EPA has not already done so. EPA concludes, in following the approach described above, that it will address issues related to the achievability of the numerical limits by well-operated and economically achievable treatment systems. EPA solicits comments on this method of performing a ''real world'' check on the achievability of its proposed limits.

F. Summary of Public Participation

EPA encouraged the participation of all interested parties throughout the development of the proposed meat and poultry products effluent limitations guidelines and standards. EPA conducted outreach to the following trade associations (which represent the vast majority of the facilities that will be affected by this guideline): American Meat Institute (AMI), American Association of Meat Processors (AAMP), National Renderers Association (NRA), U.S. Poultry and Egg Association, and National Chicken Council. EPA met on several occasions with various industry representatives to discuss aspects of the regulation development. EPA also participated in industry meetings and gave presentations on the status of the regulation development. EPA also met with environmental groups including the Natural Resources Defense Council concerning this proposal.

EPA met with the industry associations and environmental groups and representatives from State and local governments when this industry was first identified as a candidate for rulemaking to seek their opinions on the issues that the Agency should consider as it moved forward for rulemaking.

In the development of the surveys which were used to gather facility specific information on this industry, EPA consulted with the industry groups and several of their members to ensure that the information being requested was asked for in such a way as to be

understandable and that it would be available in the form requested.

EPA conducted site visits to 15 facilities: 6 meat processors, 7 poultry processors and 2 independent rendering facilities and conducted sampling at 11 facilities which provided samples from slaughtering operations, first and further processing and rendering. The facilities visited and sampled were identified by industry experts and State or EPA regional personnel as exemplifying the best performance and treatment in the industry.

EPA also met with representatives from USDA to discuss this regulation and how it might be affected or affect requirements on the meat and poultry processing industry implemented by the Food Safety and Inspection Service of USDA. EPA has met with representatives from State and local governments to discuss their concerns with meat and poultry processing facilities and how EPA should approach these facilities in regulation.

VI. Subcategorization

A. Factors Considered in Developing Proposed Subcategories

The CWA requires EPA, when developing effluent limitations guidelines and pretreatment standards, to consider a number of different factors. For example, when developing limitations that represent the best available technology economically achievable for a particular industry category, EPA must consider, among other factors, the age of the equipment and facilities in the category, location, manufacturing processes employed, types of treatment technology to reduce effluent discharges, the cost of effluent reductions and non-water quality environmental impacts. See Section 304(b)(2)(B) of the CWA, 33 U.S.C. 1314(b)(2)(B). The statute also authorizes EPA to take into account other factors that the Administrator deems appropriate and requires the BAT model technology chosen by EPA to be economically achievable, which generally involves consideration of both compliance costs and the overall financial condition of the industry. EPA took these factors into account in considering whether to establish subcategories and found that dividing the industry into subcategories leads to better tailored regulatory standards, thereby increasing regulatory predictability and diminishing the need to address variations among facilities through a variance process. See *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1053 (D.C. Cir. 1978).

EPA used industry survey data and EPA sampling data for the subcategorization analysis. Various subcategorization criteria were analyzed for trends in discharge flow rates, pollutant concentrations, and treatability to determine where subcategorization was warranted. Equipment and facility age and facility location were not found to impact wastewater generation or wastewater characteristics; therefore, age and location were not used as a basis for subcategorization. An analysis of non-water quality environmental characteristics (*e.g.,* solid waste and air emission effects) showed that these characteristics also did not constitute a basis for subcategorization (*see* Section X).

Even though size (*e.g.,* acreage, number of employees, production rates) of a facility does not have an influence on production-normalized wastewater flow rates or pollutant loadings, size was used as a basis for subcategorization because more stringent limitations would not be cost effective for smaller poultry facilities (*see* Sections III.A.1 and III.B for definition of ''small'' and ''non-small'' facilities for each subcategory). See Section III.A.1 for a description on how and why EPA established production based standards for small MPP facilities.

EPA also identified types of meat products manufacturing processes (*e.g.,* slaughtering, further processing, rendering) as a determinative factor for subcategorization due to variations in production-normalized wastewater flow rates (PNFs) and estimated pollutant loadings. For meat facilities: the PNF for slaughtering is 322.8 gal/1000 lb. Live Weight Killed; the PNF for further processing 555.4 gal/1000 lb. Finished Product; the PNF for meat cutters in subcategory F only is 130.4 gal/1000 lb. Finished Product; and the PNF for rendering is 346.0 gal/1000 lb. Raw Material. For Poultry facilities: the PNF for slaughtering is 1,289 gal/1000 lb. Live Weight Killed; the PNF for further processing is 315.7 gal/1000 lb. Finished Product; and, the PNF for rendering is 346.0 gal/1000 lb. Raw Material.

Most slaughtering operations utilize significant amounts of water to process an animal. Slaughtering operations generally involve taking the live animal and producing whole or cut-up meat carcasses (which are then further processed). Wastewaters from slaughtering operations are generated from a variety of sources that generally include the areas where animals are killed and bled, hides or feathers are removed, animals are eviscerated, carcasses are washed and chilled, and areas where carcasses are trimmed and cut to produce the whole carcasses or carcass parts. As a result of these operations, wastewaters are generated that contain varying levels of blood, animals parts, viscera, fats, bones, etc. In addition, federal food safety concerns require frequent and extensive clean-up of slaughtering operations, which also contributes to wastewater generation. These clean-up wastewaters will contain not only slaughtering residues and particulate matter, but also contain products used for cleaning and disinfection (detergents and sanitizing agents).

Alternatively, most further processing operations generate wastewaters from sources different than slaughtering operations. These sources, and the resulting wastewater characteristics, are highly dependent on the type of finished product desired. Further operations can include, but are not limited to, cutting and deboning, cooking, seasoning, smoking, canning, grinding, chopping, dicing, forming or breading. Unlike slaughtering operations, most further processing operations, except for clean-up, do not utilize significant amounts of water. Wastewaters generated from further processing operations will contain some further processing residues and particulate matter (e.g., breading, spices, etc.), as well as products used for cleaning and disinfection (detergents and sanitizing agents).

Rendering operations are used primarily to process slaughtering by-products (e.g., animal fat, bone, blood, hair, feathers, dead animals, etc.). The amount of water used and the characteristics of wastewater generated by rendering operations are highly dependent on a number of factors, including the type of product desired (e.g., edible v. inedible), the rendering process used (batch v. continuous; wet process v. dry process), and the source and type of raw materials used (e.g., poultry processors, slaughterhouses, butcher shops, supermarkets, restaurants, fast-food chains, farms, ranches, feedlots, animal shelters, etc.). In general, rendering operations involve cooking the raw materials to recover fats, oil, and grease; remaining residue is dried and then granulated or ground into a meal. A significant portion of wastewater pollutant loadings generated from rendering operations is condensed steam from cooking operations. Unlike slaughtering and further processing operations, rendering clean-up operations are generally less rigorous, generating a smaller proportion of the total expected wastewater flow.

The following section describes the proposed meat and poultry products industry subcategorization.

B. Proposed Subcategories

In today's notice, EPA proposes to keep the current subcategorization scheme for small facilities, but for larger facilities, we are proposing new limitations and collapsing the existing subcategories. Specifically, EPA proposes new limitations and standards that are the same for facilities in the following MPP subcategories: Simple Slaughterhouses (subpart A); Complex Slaughterhouses (subpart B); Low-Processing Packinghouses (subpart C); and High-Processing Packinghouses (subpart D). Also, EPA proposes new limitations and standards that are the same for facilities in the following MPP subcategories: Meat Cutters (subpart F); Sausage and Luncheon Meats Processors (subpart G); Ham Processors (subpart H); and Canned Meats Processors (subpart I). EPA is also retaining the Renderers (subpart J) subcategory and proposing new limitations and standards for facilities in this subcategory. This proposal does not revise the existing limitations and standards for smaller facilities in subparts A–J (*see* Section III.A.1). Finally, EPA proposes adding two MPP subcategories in 40 CFR part 432: Poultry First Processing (subpart K) and Poultry Further Processing (subpart L). These two new subcategories will cover both small and larger poultry processing facilities, although, the smaller facilities in each of the subcategories are required to meet less stringent requirements than larger poultry facilities (*see* Section III.B and Table III.B–1). EPA chose less stringent limitations for smaller poultry processing facilities because more stringent limits would not be cost effective for smaller poultry facilities (*see* Section III.A.1).

Each subcategory is described in more detail immediately below in terms of its manufacturing processes and wastewater characteristics. All subcategories are further segmented based on the amount of meat and poultry products they slaughter, further process or render.

1. Meat Slaughterhouses and Packinghouses—Subparts A, B, C and D

EPA is proposing to retain the existing subcategories. EPA is not proposing to revise the existing BPT requirements for facilities which slaughter 50 million pounds per year or less for the reasons described in Section III.A.1. of this notice. Since the existing limitations for smaller meat facilities (which EPA believes should be maintained) are different for each of the subcategories, the subcategories themselves are being maintained. EPA believes that retaining the existing subcategorization scheme will simplify implementation for the permit writers as well as generate appropriate limitations and standards for the facilities. EPA requests comments on this approach.

The proposed regulation would require all meat direct dischargers that slaughter more than 50 million pounds live weight per year to achieve the same production-based effluent limitations. EPA finds that the slaughtering and initial processing operations found in all four of these subcategories are the key factors in determining wastewater characteristics and treatability. Moreover, EPA believes there are no significant differences between these four subcategories in terms of age, location, and size of facilities. In addition to slaughtering and initial processing, EPA is proposing to establish allowances to account for the additional processes that may also occur on-site. The proposed effluent limitations guidelines would provide allowances for discharges from each of the following processes: slaughtering (which includes initial processing), further processing, and rendering. These allowances would be the same for all four subcategories and are related to the volume of production as follows: The amount of live weight killed for the slaughtering process, the amount of finished product that is further processed on site, and the amount of raw material that is rendered on-site.

Because of the similarities in wastewater characteristics across all meat slaughter and packinghouses, EPA also requests comment on an alternate approach to subcategorizing the meat slaughtering sector. This alternative would incorporate all meat slaughtering activities in one subcategory. This subcategory would retain the individual BPT allowances for simple and complex slaughterhouses and low and high processing packinghouses for facilities which slaughter 50 million pounds or less per year.

2. Meat Further Processing—Subparts F, G, H and I

The proposed subcategorization scheme requires all facilities that generate more than 50 million pounds per year of meat finished products without performing slaughtering to be regulated by the same production-based effluent limitations guidelines (*see* Section III). The limitations guidelines allow discharges based on the amount of finished product that is further processed on site. The wastewater characteristics and treatability for three of the four subcategories are sufficiently similar to group them together for the purpose of revising or setting new limitations and standards. However, subpart F limitations will be based on a lower production-normalized flow than subpart G, H and I limitations because subpart F facilities generate substantially less water per pound of finished product than the other three subparts. Moreover, EPA believes there are no significant differences between these four subcategories in terms of age, location, and size of these MPP facilities. EPA believes that this subcategorization scheme will simplify implementation for the permit writers as well as generate appropriate limitations and standards for the facilities.

3. Renderers—Subpart J

Subpart J applies to independent rendering facilities which are facilities that only render raw materials and process hides and do no first or further processing. The proposed subcategorization scheme requires all independent rendering facilities that render more than 10 million pounds per year of raw material to be regulated by the same production-based effluent limitations guidelines. This is a change from the current guidelines, which only apply to independent renderers that render more than approximately 27.4 million pounds raw material per year (or 75,000 pounds raw material per day for a facility that operates 365 days per year). See Section III.A.1 for a description on how and why EPA established production based standards for small MPP facilities. The limitations and standards allow discharges based on the amount of raw material that is rendered on site.

4. Poultry First Processing—Subpart K

EPA divided the poultry first processors into two segments: Small and not-small (*see* Table III.B–1). Small poultry first processors slaughter 10 million pounds of poultry per year or less while non-small poultry first processors slaughter more than 10 million pounds of poultry per year. See Section III.B for a description on how and why EPA established production based standards for small poultry processing facilities. EPA is proposing that the technology-based effluent limitations guidelines for small poultry first processors (both new and existing) be based on the less efficient nitrification technology option (Direct Option 1). EPA is proposing that the technology-based effluent limitations guidelines for non-small poultry first processors (both new and existing) be

based on the nitrification/denitrification technology option (Direct Option 3). See Section VII.D for a discussion of the technology options. See the MPP Development Document and MPP Economic Analysis for more details on how EPA developed the two segments and specific requirements for each segment.

The effluent limitations guidelines allow discharges for all activities that may be performed on-site including further processing and rendering based on: (1) The amount of live weight killed; (2) the amount of finished product that is further processed on site; and (3) the amount of raw material that is rendered on site.

5. Poultry Further Processing—Subpart L

EPA divided the poultry further processors into two segments: small and non-small. Small poultry further processors generate 7 million pounds of finished product per year or less while non-small poultry further processors generate more than 7 million pounds of finished product per year. See Section III.B for a description on how and why EPA established production based standards for small poultry processing facilities. EPA is proposing that the technology-based effluent limitations guidelines for small poultry further processors (both new and existing) be based on a less efficient nitrification technology option (Direct Option 1). EPA is proposing that the technology-based effluent limitations guidelines for non-small poultry further processors (both new and existing) be based on the nitrification/denitrification technology option (Direct Option 3). See Section VII.D for a discussion of the technology options. See the MPP Development Document and MPP Economic Analysis for more details on how EPA developed the two segments and specific requirements for each segment. The effluent limitations guidelines allow discharges based on the amount of finished product that is produced on site and also include provisions for those poultry further processors that perform on-site rendering operations.

VII. Technology Options, Costs, Wastewater Characteristics, and Pollutant Reductions

A. Wastewater Treatment Technologies in the MPP Industry

EPA developed a series of technology option alternatives for the proposed rule based on the volumes and characteristics of wastewater generated at MPP facilities and the types of treatment technologies currently used by the industry to treat these wastewaters. Evaluation and selection of technology options was based primarily on information provided in the MPP detailed surveys (*see* Section V.B for a description of the MPP detailed survey.) The detailed surveys requested extensive data on wastewater characteristics, including both raw and treated wastewasters, treatment-in-place technologies, as well as information on production processes. The technology options presented in today's proposal are based on various factors including, but not limited to, the frequency of occurrence, technical performance of unit processes in reducing pollutant loads, and economic achievability.

Because of the similarities in the physical and chemical characteristics of the wastewaters, there are virtually no differences between the meat and poultry sectors in the types of treatment technologies used. The unit processes that are used in treatment of meat and poultry processing wastewater are also similar to that normally used in the treatment of domestic wastewater. The wastewater treatment falls into three main categories: primary treatment, secondary treatment, and tertiary treatment. Primary treatment focuses on the removal of floating and settleable solids; secondary treatment provides removal of most organic matter; and tertiary treatment is used for the removal of nitrogen and/or phosphorus and/or suspended solids. Meat and poultry processing facilities that discharge to a publicly owned treatment works (POTW) typically employ only primary treatment; however, some facilities also provide secondary treatment. Facilities that discharge directly to navigable waters under the authority of a National Pollutant Discharge Elimination System (NPDES) permit, at a minimum apply both primary and secondary treatment. Many direct dischargers also apply tertiary treatment to wastewater discharged under the NPDES permit system.

A variety of unit processes are used by MPP facilities to provide primary, secondary, and tertiary wastewater treatment. Table VII.A–1 summarizes the relative frequency of treatment units used in the industry, based on a preliminary assessment of information provided in the detailed survey. The unit processes most commonly used for the treatment of meat and poultry processing wastewater are described below.

TABLE VII.A–1.—DISTRIBUTION OF WASTEWATER TREATMENT UNITS IN MPP INDUSTRY

Treatment category	Treatment unit	Percent of direct/indirect discharging facilities having the treatment unit in place	
		Direct Discharger (percent)	Indirect Discharger (percent)
Primary treatment	Screen	98	64
	Oil and Grease Removal	83	77
	Dissolved Air Floatation	81	46
	Flow Equalization	75	34
Secondary and Tertiary Treatment	Biological Treatment [1]	100	13
	Filtration	23	0
	Disinfection	92	0

Note 1: Biological Treatment includes any combination of the following: aerobic lagoon, anaerobic lagoon, facultative lagoon, any activated sludge process, and/or other biological treatment processes (*e.g.,* trickling filter).
Source: Detailed Survey Data.

1. Primary Treatment

MPP industry raw wastewaters have high levels of suspended solids and high concentrations of BOD. Most MPP facilities, whether they are direct or indirect dischargers employ some sort of primary treatment to remove floating and settleable solids. The typical unit processes used for primary treatment are

screens followed by dissolved air flotation (DAF) and flow equalization tanks. Some facilities use chemicals to improve suspended solids and biochemical oxygen demand (BOD) removal. Primary treatment serves to reduce suspended solids and BOD loads to subsequent unit processes. Primary treatment can also be used to recover materials that can be converted into marketable products through rendering.

Screening is typically the first and most inexpensive form of primary treatment. Screening removes large solid particles from the waste stream that could otherwise damage or interfere with downstream equipment and treatment processes. Generally all wastewater generated in meat and poultry processing facilities is screened before discharge to subsequent treatment processes. In poultry processing facilities, use of screens aids in recovery of both feathers and offal (viscera and meat particles), that are valuable by-products for the poultry rendering industry. In meat processing facilities, screening is generally limited to processing and cleanup water since viscera (usually) is not transported hydraulically.

Dissolved air flotation (DAF) is also used extensively in the primary treatment of meat and poultry processing wastewater to remove suspended solids. The principal advantage of DAF over gravity settling is the ability to remove very small or light particles including grease more completely and in a shorter period of time. Once particles have been floated to the surface, removal is done by skimming. Chemicals, including, aluminum or iron salts or synthetic organic polymers are often added to improve the performance of DAF units.

Most meat and poultry processing facilities operate on a five-day per week schedule, resulting in a weekly variation of wastewater flow (and load). Also, during the operation of the facilities, daily fluctuation in the wastewater flow (and load) is very common. Flow equalization tanks are used to eliminate the need for sizing subsequent treatment units to handle peak flows and to provide continuous constant flow (and load) to the subsequent treatment units, in-line flow.

2. Secondary Biological Treatment

Because MPP wastewaters have a high organic content, it is not usually possible for a direct discharger to meet permit limits without employing secondary treatment. Although effective primary treatment can significantly reduce the BOD load of a MPP facility, typically more organic removal is necessary prior to discharge into a receiving water body. This additional removal can be accomplished through secondary biological treatment. Commonly used systems secondary biological treatment of wastewater include activated sludge systems, lagoons, oxidation ditch, extended aeration, and sequencing batch reactors. In addition, a sequence of anaerobic and aerobic biological processes is commonly used for secondary treatment.

Anaerobic lagoons are the most commonly used anaerobic unit processes. Five-day biochemical oxygen demand (BOD_5) reductions by anaerobic lagoons can be as high as 90 percent.

In the treatment of meat and poultry processing wastewaters, aerobic treatment may directly follow primary treatment or more typically follow some form of anaerobic treatment to reduce BOD and suspended solids concentrations to levels required for direct discharge. Aerobic processes can also remove more than 90 percent of the influent BOD_5. In addition, the aerobic systems partially nitrify the wastewater by converting ammonia to nitrates. Based on detailed survey responses all the direct discharging MPP facilities employ at least some kind of aerobic treatment prior to discharging the final effluent. The most common aerobic treatments units used by MPP facilities are activated sludge, aerated lagoons, oxidation ditch, extended aeration, and sequencing batch reactors.

3. Tertiary Treatment

Some MPP facilities also employ tertiary treatment to obtain further removal of suspended solids and to reduce nutrient loadings, especially nitrogen and phosphorus levels. Although, primary and secondary treatment significantly reduce BOD, suspended solids, and nitrogen compounds (*e.g.,* ammonia), tertiary treatment can provide significant further removals of nitrogen (conversion of nitrates to nitrogen gas) and especially phosphorus, which is not significantly addressed by most secondary biological treatment systems.

Nitrogen can be largely eliminated from the wastewater by the combined nitrification and denitrification process. Nitrates formed during the nitrification process in secondary treatment are converted to nitrogen gas in the anoxic denitrification unit. Normally, the denitrification unit is placed before the nitrification unit to utilize the influent BOD as the carbon source for denitrification. The nitrates formed in the nitrification unit are recycled to the denitrification unit. Bardenpho process, sequencing batch reactors, extended aeration, and oxidation ditch are commonly used for denitrification. Very few facilities in the industry have biological phosphorous removal systems. A biological phosphorous removal system consists of an anaerobic tank before the nitrification and denitrification system. The system can achieve a very low effluent concentration of phosphorous.

Simple clarification after secondary wastewater treatment may not reduce the concentration of suspended solids to the desired level. Therefore, filtration systems are used to reduce the effluent concentration of suspended solids. During the filtration cycle, wastewater is passed through a bed of granular media which traps the suspended solids thus producing high quality effluent. The filtration unit is regenerated periodically by backwashing. Filtration units use various types of media as filter bed. The sand filtration systems are most commonly found in the industry.

The final step in the treatment of meat and poultry processing wastewaters is disinfection with the objective of destroying remaining pathogenic microorganisms. Disinfection systems are found in the majority of the direct dischargers; very few (if any) indirect dischargers disinfect their wastewater because of additional treatment at the POTW accomplishes the pathogen destruction.

B. Wastewater Sources, Water Use, and Wastewater Characteristics

1. Meat Products Facilities

a. Wastewater Sources and Water Use

Most steps in the slaughtering process generate pollutants that flow into wastewater. Animal urine and fecal matter, and hair, which accumulate in the animal holding pens are washed down into floor drains, and subsequently enter the wastewater stream. Significant amounts of blood are generated in the stunning and killing areas. Although it is usually saved for rendering purposes, some blood often enters wastewater. Blood, in addition to other meat and tissue waste and hide particles, is generated during cattle de-hiding. These particles also can contaminate water if they are not collected properly. Wastewater from both the scalding tub and the de-hairing machine can contain hair, soil, mineral oil and manure. BOD levels from these areas can be as high as 3,000 mg/L. Additional blood and tissue pieces can be produced during the evisceration process. Large amounts of wastewater typically come from washing carcasses. This water contains high levels of

grease, and small amounts of blood, tissue solids, and other fluids. As carcasses are cut into smaller pieces, small pieces of tissues and fluids can enter wastewater. At the end of each day, equipment is cleaned and sanitized. This washdown contains bone dust and other fluids such as blood and cleaning fluids (Docket No. W–01–06, Record No. 00132).

Facility clean up and sanitation can contribute significantly to the overall volume and pollutant load for meat first and further processing facilities. The volume and pollutant load of this wastewater varies significantly from facility to facility, and is dependent on several factors including efficiency of processing facility, housekeeping practices, the extent to which dry cleaning processes are used, and the volume of water used in washing facility equipment. Improper use of water hoses, for example, could lead to unnecessary use of water and result in the production of excess wastewater.

Industrial practices within the meat further processing industry sector are diverse and produce variable waste loads. Meat further processing facilities purchase animal carcasses, meat parts, and other materials and produce sausages, cooked meats, cured meats, smoked meats, canned meats, frozen and fresh meat cuts, natural sausage casings, and other prepared meats and meat specialties. None of these facilities engage in any slaughtering on the same premises as the processing activity.

The product mix of these facilities includes many combinations of products. There are facilities that specialize in one or two types of processed meats products, such as hams, fresh sausages, canned meat products, or meat cuts, and facilities that produce a number of products up to the full line of processed meat products. Meat further processing operations include:

- Raw material storage, shipping, receiving, and thawing (wet, dry, chipping);
- Carcass/meat handling and preparation (breaking, trimming, cutting, boning, tempering, skinning, slicing);
- Seasoning, spicing, and sauce preparation;
- Weighing and batching;
- Grinding, mixing, emulsifying;
- Extruding, stuffing, molding, linking, casing peeling;
- Pickling, smoking, cooking;
- Can preparation, filling, covering, and retorting; and
- Cleanup operations.

Many of these operations contribute to the raw waste load of a meat further processor. Wastewater from these operations generally contain meat, fat, and bone particles as well as soluble constituents such as salts, blood, and pickling, preserving, and preparation materials (e.g., sugar, sodium nitrite and nitrate, spices). Current MPP effluent guidelines divide the meat further processors into five separate industry groups: Small Processors (40 CFR part 432, subpart E); Meat Cutters (40 CFR part 432, subpart F); Sausage and Luncheon Meat Processors (40 CFR part 432, subpart G); Ham Processors (40 CFR part 432, subpart H); and Meat Canners (40 CFR part 432, subpart I).

Small processors, defined as operations producing up to 2730 kilograms (6000 pounds) per day of any type or combination of meat product, are currently regulated under subpart E of 40 CFR part 432. They may produce a wide range of products but most of the these facilities prepare fresh meat cuts, sausage and wieners, and hams. The wastewater source for this subcategory is generally from cleanup and sanitation operations (approximately 50–90 percent of total wastewater flow). The scale of production and the typically limited finished product mix preclude the need for substantial quantities of water during the production day.

Further processors that produce more than 6,000 pounds of meat cuts as finished products per day (i.e., non-small processors) are currently regulated under subpart F of 40 CFR part 432. These facilities require virtually no process water but do generate wastewaters during cleanup and sanitation operations. Facilities in this industry grouping generally break, trim, and cut the large meat parts into single-portion meat cuts. Very little equipment (other than saws, knives and work surfaces) comes in contact with the meat products. The relative simplicity of operation and equipment results in small quantities of process water and a small waste load in the cleanup water.

Sausage and luncheon meat processors that produce more than 6,000 pounds of finished product per day (i.e., non-small processors) are currently regulated under subpart G of 40 CFR part 432. These facilities have an extensive product mix and tend to require more intensive meat processing (e.g., seasoning, cuttings, molding, packing) than meat cutters. Wastewater sources include meat processing and cleanup operations.

Ham processors that produce more than 6,000 pounds of finished product per day (i.e., non-small processors) are currently regulated under subpart H of 40 CFR part 432. These facilities produce hams and other ham-related products. The operations involved in ham production use more water than the typical meat processing operations; and because of the direct water-ham contact, the wastewater load is increased. Ham processors rely on pickling, preserving, and preparation materials (e.g., sugar, sodium nitrite and nitrate, spices) to cure and prepare the ham products. The production operations and cleanup in the rest of the ham processing facility is fairly comparable in both practice and resulting waste load to that of the sausage and luncheon meat processors.

Meat canners that produce more than 6,000 pounds of finished product per day (i.e., non-small processors) are currently regulated under subpart I of 40 CFR part 432. These facilities generally require a number of processing steps such as size reduction, mixing and blending, and cooking. These operations require special equipment and generate more wastewater flows and pollutant loading than other meat further processors per pound of finished product. Meat canners also use pickling, preserving, and preparation materials (e.g., sugar, sodium nitrite and nitrate, spices) to cure and prepare the canned meat products.

b. Wastewater Characterization

Organic materials are the primary sources of pollutants in meat first and further processing wastewater. These substances cause a reduction in oxygen levels as microorganisms consume oxygen for decomposition processes. For this reason these organic substances are evaluated by biochemical oxygen demand (BOD), which measures the amount of oxygen required by bacteria and other microorganisms to decompose the organic matter, and BOD_5, which calculates the amount of oxygen used in the first five days of decomposition. Although levels vary between facilities, typical BOD_5 values in the raw wastewater influent to be treated range from 1,600 mg/L to 3,000 mg/L (Docket No. W–01–06, Record No. 00128). Primary sources of high BOD_5 levels include blood, stomach contents, greases and fats, and pickling, preserving, and cooking materials.

Bacteria are also present in meat first and further processing wastewater in quantities of between 2 to 4 million fecal coliform colony forming units per 100 mL based on the most probable number (MPN) technique for estimating microbial populations. There is also the potential for viruses and parasite eggs to be present in the water. The amounts and types of pollutants that slaughterhouses generate greatly depends upon the particular step

considered in the slaughter process. Tables VII.B–1 and VII.B–2 give characteristics of raw wastewaters at meat product facilities.

Wastewater generated from meat further processors (*e.g.,* meat cutters, sausage producers, ham processors, meat canners) are also dominated by organic materials originating from blood, meat, fatty tissue, and meat extracts. These organic materials also are sources of biochemical oxygen demand, nitrogen, and phosphorus. Other contaminants that can directly enter the wastewater from further processing facilities include salts, pickling, preserving, and preparation materials (*e.g.,* sugar, sodium nitrite and nitrate, spices), lubricating oils, and cleaning compounds. Both slaughterhouses and further processors can generate significant quantities of oil and grease. Characteristics of first processing and further processing wastewaters are shown in Tables VII.B–1 and VII.B–2. Hog and cattle operations are presented separately to highlight differences in generation rates of pollutants of concern.

TABLE VII.B–1.—CHARACTERISTICS OF HOG PROCESSING RAW WASTEWATER

Meat operations	Raw waste characteristics						
	Daily flow MGD	BOD_5 mg/L	Suspended solids mg/L	Grease mg/L	TKN mg/L	TP mg/L	Fecal coliform CFU/100 ml
First Processing and Rendering:							
Average	1.95	2,220	3,314	674	229	73	1.6E6
Range, low-high	0.43–4.21	2,014–2,462	2,896–3,732	406–941	NA	67–78	NA
Further Processing:							
Average	0.30	1,492	363	162	24	82	1.38E6

Source: Docket No. W–01–06, Record No. 00176

TABLE VII.B–2.—CHARACTERISTICS OF CATTLE PROCESSING RAW WASTEWATER

Meat operations	Raw waste characteristics						
	Daily flow MGD	BOD_5 mg/L	Suspended solids mg/L	Grease mg/L	TKN mg/L	TP mg/L	Fecal coliform CFU/100 ml
First Processing and Rendering and Hide Processing:							
Average	1.60	5,771	1,998	1,262	150	41	1.2E6
Range, low-high	0.74–2.18	3,673–7,237	1,153–3,332	146–3,021	67–306	30–58	7.3E5–1.6E6

Source: Docket No. W–01–06, Record No. 00177

2. Poultry Facilities

a. Wastewater Sources and Water Use

As with the meat processing sector, poultry first and further processing facilities are significant consumers of water and generators of wastewaters. Poultry first processing (slaughtering) wastewaters are generated at each stage of the process, beginning with waste generated at the bird reception area from crate cleaning and ending with wastes generated from equipment cleaning during the grading and packing stage. The poultry first processing wastewaters generated at each stage of poultry first processing differ in volume and pollutant loads.

The principal sources of wastes in poultry processing are from live bird holding (reception area) and receiving, killing, defeathering, eviscerating, carcass washing, chilling, cut-up, and cleanup operations. When present, further processing and rendering operations also are significant sources of wastes. These wastes include blood not collected, feathers, viscera, soft tissue removed during trimming and cutting, bone, urine and feces, soil from feathers, and a variety of cleaning and sanitizing compounds. Further processing and rendering can be additional sources of fat and other soft tissue as well as substances such as cooking oils.

The poultry first processing volume and pollutant load from the reception area depends on several factors including bird throughput and extent of dry cleaning employed to sanitize transport vehicles, crates, and unloading areas. Minimizing the wait period prior to slaughter reduces manure production and ultimately the volume of water needed to clean the crates and unloading areas.

The first processing (slaughtering) of poultry generates blood, grease, and cleaning water. Similar to meat facilities, the blood is collected and removed for processing as a by-product for use in feed or fertilizer.

Scalding is performed to loosen the feathers from the slaughtered birds. Scalding also results in the removal of some suspended solids, blood, and grit. The pollutant load generated from this step is dependent on the cleanliness of the birds, the effectiveness of blood recovery, the type of scalding process, and the quantity of water used. The scalded birds are then defeathered by plucking machines. The feathers, typically collected on screens, contain soil particles, grit, and some blood. Feathers, like blood, are treated as a valuable by-product and are cooked, and grounded to form a high protein meal.

The evisceration process involves the removal of both edible offal (e.g., heart, gizzard, and liver) and inedible offal (head, guts) either by a vacuum conveyor or by a water mediated transport (flow-away) system in larger facilities, or by hand (edible offal such as feet which are captured for Asian markets) and flow-away (inedible offal) in small facilities. Screens are used in the flow away system to separate out solids. After evisceration, the carcasses are usually washed to remove any remaining blood and extraneous tissue. Viscera are captured for inedible

rendering. Evisceration is estimated to contribute about a third of the total pollutant load (Docket No. W–01–06, Record Nos. 00133–00137).

In a wet chilling process, carcasses are immersed in cold water or unstatic slush ice to retard bacterial growth and thus spoiling of the meat. The primary pollutants generated in this process are organic matter, body fluids, and fats and grease. Pollutant loads are relatively small and the wastewater can be reused in the chilling process or in other poultry processing operations (e.g., scalding tank) after treatment. USDA FSIS regulations govern water re-use practices from a food safety perspective. USDA FSIS provides an online ''Sanitation Performance Standards Compliance Guide'' as suggested means or examples by which water can be safely re-used in various applications, meeting all regulatory requirements (Docket No. W–01–06, Record No. 10029). These USDA FSIS sanitation guidelines are not regulatory but are intended for didactic purposes only.

Clean up and sanitation can contribute significantly to the overall volume and pollutant load of a poultry first processing facility. The volume and pollutant load of this wastewater varies significantly from facility to facility, and is dependent on several factors including, efficiency of the processing facility, housekeeping practices, the extent to which dry cleaning processes are used, and the volume of water used in washing facility equipment. Improper use of water hoses, for example, could lead to unnecessary use of water and the resulting production of excess wastewater.

The main poultry further processing operations contribute in varying degrees to the raw waste load and flow. These poultry further processing operations include:

- Receiving, storage, thawing;
- Cutting, deboning, dicing, grinding, and chopping;
- Cooking, batter, breading; mixing and blending; and
- Stuffing and canning.

Poultry further processors do no slaughtering but instead produce finished poultry products. Many of the operations performed in poultry further processing facilities are similar to those of meat further processing operations; therefore, sources of wastewater are similar for both meat and poultry further processors. Cooking is involved in almost all poultry further processing operations. These poultry processing operations remove specific parts of the birds, such as wings and legs, and then remove the remaining meat from the skeletal structure of the birds. Cooking may precede or follow this cutting operation. The meat is used in large pieces or reduced in size by using special equipment. Various ingredients are mixed with the poultry meat and the numerous types of finished products are formed, cooked, breaded, packaged, and usually frozen. The relative quantities of water and waste load are substantially less in these further processing facilities than in poultry first processing (slaughtering) facilities.

b. Wastewater Characterization

The principal constituents of poultry processing wastewaters are a variety of readily biodegradable organic compounds, primarily fats and proteins, present in both particulate and dissolved forms. To reduce wastewater treatment requirements, poultry processing wastewaters also are screened to reduce concentrations of particulate matter before treatment. An added benefit of this practice again is increased production of rendered by-products. Because feathers are not rendered with soft tissue, wastewater-containing feathers is not commingled with other wastewater; instead, it is screened separately and then combined with wastewater screened to recover soft tissue before treatment.

Poultry processing wastewaters remain high strength wastes even after screening in comparison to domestic wastewaters based on concentrations of BOD, COD, TSS, nitrogen, and phosphorus. Blood not collected, solubilized fat, and urine and feces are the principal sources of BOD in poultry processing wastewaters. As with meat processing wastewaters, the efficacy of blood collection is a significant factor in determining BOD concentration in poultry processing wastewaters.

Another significant factor in determining the BOD_5 of poultry processing wastewaters is the degree that manure (urine and feces), especially from receiving areas, is handled separately as a solid waste. Chicken and turkey manures have BOD_5 in excess of 40,000 mg/kg on an as excreted basis (Docket No. W–01–06, Record No. 00160). Although the cages and trucks used to transport broilers to processing facilities usually are not washed, cages and trucks used to transport live turkeys to processing facilities are washed to prevent disease transmission from farm to farm. Thus, manure probably is a more significant source of wastewater BOD for turkey processing operations than for broiler processing operations.

Primarily because of immersion chilling, fat is a more significant source of BOD in poultry processing in comparison to meat processing wastewaters. Additional sources of BOD in poultry processing wastewaters are the feather and skin oils desorbed during scalding for feather removal. Thus, the oil and grease content of poultry processing wastewaters typically is higher than that in meat processing wastewaters.

Blood not collected as well as urine and feces also are significant sources of nitrogen in poultry processing wastewaters. The principal form of nitrogen in these wastewaters before treatment is organic nitrogen with some ammonia nitrogen produced by the microbially mediated mineralization of organic nitrogen during collection. Nitrite and nitrate nitrogen generally are present only in trace concentrations, less than 1 mg/L. The phosphorus in poultry processing wastewaters also is primarily from blood, manure, and cleaning and sanitizing compounds.

Due to the presence of manure in poultry processing wastewaters, densities of the total and fecal coliform and fecal streptococcus groups of bacteria generally are on the order of several million colony forming units per 100 mL. Members of these groups of microorganisms generally are not pathogenic; but they do indicate the possible presence of pathogens of enteric origin such as *Salmonella ssp.* and *Campylobacter jejuni,* gastrointestinal parasites, and pathogenic enteric viruses. *Giardia lamblia,* and *Cryptosporidium parvum* are not of concern in poultry processing wastewaters.

Poultry processing wastewaters also contain a variety of mineral elements, some of which are present in the potable water used. Water supply systems and mechanical equipment may be significant sources of metals including copper, chromium, molybdenum, nickel, titanium, and vanadium. In addition, manure is a significant source of arsenic and zinc. Although pesticides also are commonly used in the production of poultry to control external parasites, mandated withdrawal periods before slaughter typically should limit concentrations in wastewater to non-detectable or trace levels. Table VII.B–3 gives characteristics of poultry processing raw wastewaters.

TABLE VII.B–3.—CHARACTERISTICS OF POULTRY PROCESSING RAW WASTEWATER

Poultry meat operations	Raw waste characteristics						
	Daily flow MGD	BOD_5 mg/L	Suspended solids mg/L	Grease mg/L	TKN mg/L	TP mg/L	Fecal coliform CFU/100 ml
First Processing:							
Average	0.89	1,662	760	665	54	12	9.8E5
Range, low-high	0.60–1.10	948–2,166	510–1,040	243–1,501	14–102	6–17	2.6E5—1.6E6
Further Processing and Rendering:							
Average	1.10	3,293	1,657	793	80	72	8.6E5

Source: Docket No. W–01–06, Record No. 00161.

3. Independent Rendering Facilities

a. Wastewater Sources and Water Use

Rendering operations are intensive users of water and significant generators of wastewater. Water is used throughout the rendering process, for raw material sterilization, condensing cooking vapors, facility cleanup, truck and barrel washing, odor control and boiler makeup (Docket No. W–01–06, Record No. 00141). Most of these activities also generate wastewater. Rendering facilities produce approximately one-half ton (120 gallons) of water for each ton of rendered material (Docket No. W–01–06, Record No. 00122). Variations in wastewater flow per unit of raw material processed are largely attributable to the type of condensers used for condensing the cooking vapors and, to a lesser extent, to the initial moisture content of the raw material.

The National Rendering Association (NRA) collected data from its membership to provide a general characterization of rendering wastewaters. Results from an NRA survey of its members indicates that the average rendering facility (in terms of production) generates about 215,000 gallons/day of process wastewater and an average of 34,000 gallons/day from other sources (Docket No. W–01–06, Record No. 00122). The NRA estimates that the average sized facility discharges about 243,300 gallons/day or 169 gallons per minute (Docket No. W–01–06, Record No. 00122).

Condensates resulting from cooking and drying are the largest contributors to the total wastewater in terms of volume and pollutant load (Docket No. W–01–06, Record No. 00127). At those rendering facilities where hide curing is also performed as an ancillary operation, additional wastewater flow is generated. Wastewaters from these operations are high in pollutant concentrations, but relatively low in volume, particularly when the curing solution is only dumped a few times each year (Docket No. W–01–06, Record No. 00141).

Water scrubbers commonly are used to control emissions of noxious odors from the condensation of evaporated moisture produced during cooking and drying. These scrubbers can contribute up to 75 percent of the volume of wastewater discharged from these cooking and drying operations (Docket W–01–06, Record No. 00141). Condensates recovered from cooking and drying processes contain high concentrations of volatile organic acids, amines, and mercaptans, and other malodorous compounds. Thus, rendering facility condensers can be sources of significant emissions of noxious odors to the atmosphere without water scrubbing for emission control. Recycled final effluent is used for the scrubber operation; therefore, little increase in final effluent volume is produced by the scrubber operation.

Liquid drainage from raw material receiving areas can contribute significantly to the total raw waste load (Docket W–01–06, Record No. 00141). Large amounts of raw materials commonly accumulate in receiving areas (in bins or on floors). Fluids from these raw materials drain off and enter the internal facility sewers (Docket W–01–06, Record No. 00141). At rendering facilities that process poultry, drainage of liquids can be significant because of the use of fluming to transport feathers and viscera in the processing facility. In such facilities, liquid drainage may account for approximately 20 percent of the original raw material weight.

The other important source of wastewater from rendering operations is water used for cleaning equipment and interior building surfaces, the cleanup of spills, and trucks when materials are received from off-site locations for rendering. Cleanup of rendering equipment and facilities is less intensive than for processing facilities and usually occurs only once per day, even though rendering usually is a 24-hour operation and commonly occurs on a seven day per week schedule. The wastewater generated during cleanup operations usually accounts for about 30 percent of total rendering facility wastewater flow (Docket W–01–06, Record No. 00141).

b. Wastewater Characterization

Although a rendering facility's wastewater pollutant concentration can vary with the quantity and state of the animal material delivered to the facility (Docket No. W–01–06, Record No. 00126), the wastewater constituents are generally the same for all facilities (Docket No. W–01–06, Record No. 00141). For example, a 1975 EPA survey found that the average and range of BOD_5 wastewater values for facilities processing greater than 50 percent poultry by-products could not be differentiated from those facilities processing less than 50 percent poultry by-products or from those for the total industry. Additionally, the study found that facility size did not have an effect on the levels of pollutants in the waste stream. Facility practices are the determining factor for raw wasteload (Docket No. W–01–06, Record No. 00141). During the summer, if raw materials are received by the rendering operation in an advanced state of decay, ammonium levels in the effluents could increase.

In a typical rendering facility the raw materials that are processed include body fluids (including blood), fat, manure, hide curing solutions, tallow and grease, and animal tissue (including meal products such as meat, meat and bone, blood, feathers, hair and poultry meal) (Docket No. W–01–06, Record No. 00126; Record No. 00141). All of these products can enter the wastewater, and as a result, the wastewater typically contains organic materials such as protein (soluble and insoluble), grease, suspended solids, which are sources of biochemical oxygen demand, nitrogenous compounds, phosphorus, salts.

As mentioned above, wastewater is generated at each step of the rendering process. Condensates formed during the cooking/drying process are extremely polluted and contain high concentrations of volatile organic acids, amines, mercaptans, and other noxious compounds. Most of the organic compounds detected in rendering wastewater are volatile fatty acids (Docket No. W–01–06, Record No. 00127).

Washdown in inedible rendering facilities is less intensive than in meat and poultry processing facilities because the same degree of sanitation is not required (Docket No. W–01–06, Record No. 00141). Washdown, the process of cleaning the areas for receiving, grinding and cooking of raw materials and product separation with water, usually occurs at the end of a day's operation when rendering has been completed. The volume of water used for cleanup can be a significant portion of the flow per unit of raw material processed; usually, clean up water accounts for 30 percent of the total wastewater flow (Docket No. W–01–06, Record No. 00141). Other areas are typically dry cleaned. Washdown can also follow an accidental spill, further contributing to the wastewater load.

Each step in the rendering process contributes to the overall pollutant load and volume of wastewater. The relative contributions of each step in the process can be seen in Table VII.B–4. The table presents the pollutant concentrations found in samples collected from a continuous dry rendering facility in Columbus, Ohio (Docket No. W–01–06, Record No. 00126). Samples from cooker condensate, raw blood, and washdown water were analyzed. The cooker condensate was mostly composed of condensed volatile fats and oils with some ammonia. The washdown water was facility clean-up water mixed with drainage from the raw product storage hopper (the relative proportions were not measured). Although the blood accounted for only a small percentage of the total volume of wastewater, it was very high in chemical oxygen demand (COD).

TABLE VII.B–4.—POLLUTANT LOADINGS FOR A DRY CONTINUOUS RENDERING FACILITY

Parameter	Raw blood [1] (mg/l)	Cooker condensate [1,2] (mg/l)	Wash-up water [3] (mg/l)
Total COD	150,000	2,400–6,000	7,600
Soluble COD	136,000	2,400–6,000	3,200
Kjeldahl Nitrogen (TKN–N)	16,500	430–740	270
Crude Protein (Org-N*6.25)	81,250	0	1,440
Ammonia Nitrogen	3,500	430–740	40
COD: TKN	9.1	5.6–8.1	28.1
Total Phosphorus (P)	183	<4	15.1
COD:P	820	>1500	503
Freon Extractables (Fats, Oils, and Grease)	620	110–260	35
Potassium	798	<6	20.9
Calcium	55	<1	26.4
Magnesium	27	<1	7.3
Iron	164	2	9.4
Sodium	818	0.1	37.1
Copper	0.7	<0.2	0.1
Zinc	1.3	<0.15	0.46
Manganese	0.05	0.05	0.01
Lead	<0.6	<3	<1.3
Chromium	0.3	<0.2	0.12
Cadmium	0.05	<0.01	<0.04
Nickel	<0.2	<1	<0.4
Cobalt	<0.02	<0.01	<0.04
Sulfate (SO_4–S)	300	<2	4.6
Total Chloride	1700	<2	86

Source: Docket No. W–01–06, Record No. 00126.

Note 1: Each point is the mean of three samples analyzed in duplicate.

Note 2: Two batches of influent were used in the research. A range in concentration levels is shown for some cooker condensate parameters because of variability in strength between winter and summer batches. Cold ambient temperatures around the forced air condensers affected the COD strength of the cooker condensate. The COD strength of the blood and wash-up water was similar for both batches, so only one concentration level is presented.

Note 3: "<" and ">" symbols both indicate the limits of the analyses were exceeded.

The National Rendering Association (NRA) collected data from its membership to provide a general characterization of rendering wastewaters. Table VII.B–5 presents the results of this survey. The data represent only wastewater generated and final effluent loadings, and do not identify specific sources of generated wastewater. The final effluent data represent pollutant loads after treatment has been applied. The NRA did not collect data on nutrients or metals. Fecal coliform bacteria were detected at bacterial counts of 250,000,000 colony forming units per milliliter for generated wastewaters and 45,000 colony forming units per milliliter for discharged wastewaters.

TABLE VII.B–5.—WASTEWATER CHARACTERIZATION OF "TYPICAL" NRA MEMBER RENDER FACILITY

Parameter	Generated wastewater concentration (mg/L)	Discharged wastewater concentration (mg/L)
Chemical Oxygen Demand (COD)	123,000	8,000
Biochemical Oxygen Demand (BOD)	80,000	5,100
Total Suspended Solids (TSS)	8,400	268
Fats, Oils, and Greases (FOG)	3,200	116
Metals (Average Zinc)	NA	0.68

Source: NRA, 2000.

C. Pollutants of Concern

EPA determined pollutants of concern for the meat and poultry products industry by assessing EPA sampling data. To establish the pollutant of concern, EPA reviewed the analytical data from influent wastewater samples to determine the pollutants which were detected at treatable levels. EPA set treatable levels at five times the baseline value to ensure that pollutants detected at only trace amounts would not be selected. EPA obtained the pollutants of concern by establishing which parameters were detected at treatable levels in at least 10 percent of all the influent wastewater samples. Tables VII.C–1 and VII.C–2 show the result of this analysis. EPA did not sample at independent rendering facilities but instead transferred data from on-site rendering facilities. Consequently, EPA is using all the pollutants of concern from Tables VII.C–1 and VII.C–2 for independent rendering facilities. EPA is planning further sampling at independent rendering facilities after proposal to better refine the list of pollutants of concern list for independent renderers.

TABLE VII.C–1.—POLLUTANTS OF CONCERN FOR MEAT PROCESSING FACILITIES

Pollutant group	Pollutant	CAS No.	Number of times analyzed	Number of detects
Classicals or Biologicals	Aeromonas	C2101	36	36
	Ammonia as Nitrogen	7664417	46	46
	Biochemical Oxygen Demand	C003	46	45
	BOD 5-day (Carbonaceous)	C002	46	46
	Chemical Oxygen Demand (COD)	C004	46	46
	Chloride	16887006	46	46
	Cryptosporidium	137259508	6	6
	Dissolved Biochemical Oxygen Demand	C003D	46	41
	Dissolved Phosphorus	14265442D	46	46
	E. Coli	C050	36	36
	Fecal Coliform	C2106	46	46
	Fecal Streptococcus	C2107	46	46
	Hexane Extractable Material	C036	46	46
	Nitrate/Nitrite	C005	46	33
	Total Coliform	E10606	46	46
	Total Dissolved Solids	C010	46	46
	Total Kjeldahl Nitrogen	C021	36	36
	Total Organic Carbon (TOC)	C012	46	46
	Total Orthophosphate	C034	46	45
	Total Phosphorus	14265442	46	46
	Total Suspended Solids	C009	46	46
	Volatile Residue	C030	46	46
Metals	Chromium	7440473	46	46
	Copper	7440508	46	46
	Manganese	7439965	46	46
	Titanium	7440326	46	46
	Zinc	7440666	46	46
Pesticides	Carbaryl	63252	12	5
	Cis-permethrin	61949766	12	6
	Trans-permethrin	61949777	12	7

TABLE VII.C–2.—POLLUTANTS OF CONCERN FOR POULTRY PROCESSING FACILITIES

Pollutant group	Pollutant	CAS No.	Number of times analyzed	Number of detects
Classicals or Biologicals	Aeromonas	C2101	17	17
	Ammonia as Nitrogen	7664417	48	47
	Biochemical Oxygen Demand	C003	48	48
	BOD 5-day (Carbonaceous)	C002	48	48
	Chemical Oxygen Demand (COD)	C004	48	48

TABLE VII.C–2.—POLLUTANTS OF CONCERN FOR POULTRY PROCESSING FACILITIES—Continued

Pollutant group	Pollutant	CAS No.	Number of times analyzed	Number of detects
	Chloride	16887006	48	48
	Dissolved Biochemical Oxygen Demand	C003D	48	47
	Dissolved Phosphorus	14265442D	48	48
	E. Coli	C050	17	17
	Fecal Coliform	C2106	23	23
	Fecal Streptococcus	C2107	23	23
	Hexane Extractable Material	C036	48	48
	Nitrate/Nitrite	C005	48	28
	Salmonella	68583357	17	3
	Total Coliform	E10606	23	23
	Total Dissolved Solids	C010	48	48
	Total Kjeldahl Nitrogen	C021	47	47
	Total Organic Carbon (TOC)	C012	48	46
	Total Orthophosphate	C034	48	44
	Total Phosphorus	14265442	48	48
	Total Residual Chlorine	7782505	48	14
	Total Suspended Solids	C009	48	48
	Volatile Residue	C030	48	48
Metals	Copper	7440508	48	48
	Manganese	7439965	48	47
	Zinc	7440666	48	48
Pesticides	Carbaryl	63252	21	12

D. Approach to Estimating Compliance Costs

1. Overview

This section describes EPA's methodology for estimating engineering compliance costs and pollutant loading reductions associated with the regulatory options proposed for the meat and poultry products industry. Costs and pollutant loading reductions were estimated for each class of MPP facilities, including meat, poultry, and meat and poultry (mixed) facilities. A description of each of the technology options is provided below and the rationale for selecting the proposed BAT and NSPS options are provided in Section XI. Detailed information on estimated compliance costs are provided in the MPP Development Document (*see* Docket No. W–01–06, Record No. 00168).

2. Methods for Estimating Compliance Costs

a. Overview

This section presents EPA's estimates of industry-wide compliance costs associated with the proposed rule. EPA separated MPP facilities into groups based on the type of meat and poultry processed (*e.g.,* meat, poultry, or both meat and poultry). To ensure all facilities are accounted for, and variation in raw wastewater characteristics are considered, EPA classified all meat and poultry processing operations as either first processing (*e.g.,* slaughtering, carcass preparation and quartering), further processing (*e.g.,* deboning, cooking, sausage making), or rendering (wet or dry) and all possible combinations of these processes. These classifications produced 19 groupings. Table VII.D–1 details the 19 different groupings. Finally, EPA divided each of the 19 groupings into four size classes (small, medium, large, and very large) based on annual total production. These groupings allow EPA to consider variations in: (1) Raw wastewater characteristics as determined by meat type and processes performed; and (2) size, which can determine wastewater volumes generated and thus the size of required treatment technology. EPA used these MPP operations, meat or poultry product types, and size classifications to develop 76 model facilities (= 19 groupings x 4 size classes) in order to describe the broad range of potential MPP facilities in current operation.

TABLE VII.D–1.—DEFINITION OF 19 MPP MODEL FACILITY GROUPINGS

Number	Product type	Model facility grouping code	Processes performed		
			First processing	Further processing	Rendering
1	Meat	R1	X		
2	Meat	R2		X	
3	Meat	R12	X	X	
4	Meat	R13	X		X
5	Meat	R23		X	X
6	Meat	R123	X	X	X
7	Poultry	P1	X		
8	Poultry	P2		X	
9	Poultry	P12	X	X	
10	Poultry	P13	X		X
11	Poultry	P23		X	X
12	Poultry	P123	X	X	X
13	Mixed (Meat & Poultry)	M1	X		

TABLE VII.D–1.—DEFINITION OF 19 MPP MODEL FACILITY GROUPINGS—Continued

Number	Product type	Model facility grouping code	Processes performed		
			First processing	Further processing	Rendering
14	Mixed (Meat & Poultry)	M2		X	
15	Mixed (Meat & Poultry)	M12	X	X	
16	Mixed (Meat & Poultry)	M13	X		X
17	Mixed (Meat & Poultry)	M23		X	X
18	Mixed (Meat & Poultry)	M123	X	X	X
19	Meat and/or Poultry	Render			X

EPA developed characteristics for each model facility based on the MPP Screener Survey, the MPP Detailed Survey, and EPA's sampling data. EPA used Computer Assisted Procedure For Design And Evaluation Of Wastewater Treatment Systems (CAPDET), a computerized cost model, for developing construction cost and annual costs of a treatment unit (Docket No. W–01–06, Record No. 00129). The capital cost of a treatment unit was calculated using the construction costs obtained from CAPDET.

The step-by-step method for calculating the incremental cost for each regulatory option is summarized below:

- Use the MPP Screener Survey data to establish production levels for each of the 76 model facilities;
- Use the MPP Screener Survey data to identify the median wastewater flow (model facility flow) and to estimate the number of MPP facilities nationally represented by each of the 76 model facilities;
- Use the MPP Detailed Survey data to determine frequency of occurrence for treatment units in each of the 76 model facilities;
- Develop construction costs and annual costs of treatment units from CAPDET using model facility wastewater flows and typical influent and effluent pollutant concentrations;
- Estimate capital costs of treatment units from construction costs;
- Estimate capital and annual costs for each regulatory option of the 76 model facilities using capital and annual costs of treatment units, frequency of occurrence, and national estimate of MPP facilities for each of the 76 model facilities; and
- Estimate the regulatory cost for each subcategory based on the model facility costs.

The Agency has developed a regulatory subcategorization scheme for the proposed rule, based on various combinations of the 76 model facility costs. Table VII.D–2 defines the 10 regulatory groupings based on facility type and size. See section 11 of the MPP Development Document for more details on how EPA developed size classifications for each of the 19 groupings.

TABLE VII.D–2.—DEFINITION OF 10 MPP REGULATORY GROUPINGS

40 CFR subcategory	Facility size	Facility type	Model facility grouping code [1]
A, B, C, D	Medium, large, very large	Meat first	R1, R12, R13, R123.
	Small	Meat first processors	R1, R12, R13, R123.
F, G, H, I	Medium, large, very large	Meat further processors	R2, R23, 0.61 *M2.
	Small [2]	Meat further processors	R2, R23, 0.59*M2, 0.5*M23.
J	Medium, large, very large	Independent Renderers	Render.
	Small	Independent Renderers	Render.
K	Medium, large, very large	Poultry first processors	P1, P12, P13, P123.
	Small	Poultry further processors	P1, P12, P13, P123.
L	Medium, large, very large	Poultry further processors	P2, P23, 0.39*M2.
	Small	Poultry further processors	P2, P23, 0.41*M2, 0.5*M23.

Note 1: The following abbreviations apply: R = Meat facilities; P = Poultry facilities; M = Facilities producing both meat and poultry products; 1 = First Processors; 2 = Further Processors; and 3 = Meat or Poultry facilities performing on-site rendering.

Note 2: This group of small meat further processors includes all meat facilities that annually produce less than 50 million pounds of finished product and also includes all facilities currently covered under Subpart E (Small Processors) (*see* Section III.A.1).

The MPP Screener Survey only identified medium sized facilities performing further processing on both meat and poultry (Model Facility Grouping Code = M2 and M23) and small facilities performing further processing, and further processing and rendering on both meat and poultry (Model Facility Grouping Code = M23). EPA allocated the costs for facilities that produce both meat and poultry products into the meat further processors regulatory grouping (40 CFR part 432, Subcategory E through I) and poultry further processors regulatory grouping (40 CFR part 432, Subcategory L) based on total annual production. EPA allocated the costs equally between the two groupings if production data were not available.

b. Available Technologies

Although EPA is proposing limitations and standards based on the performance of specific processes and treatment technologies in reducing pollutant loadings, the Agency is not proposing to require a discharger to use those processes or technologies in treating the wastewater. Rather, the processes and technologies that would be used to treat meat and poultry processing wastewater are left to the discretion of individual facilities; the proposed rule requires only the numerical discharge limits be achieved. In establishing these limits, however, EPA evaluated a range of technology options that a facility could implement to achieve the proposed limitations and standards. The technology options evaluated for existing direct dischargers

(BPT/BCT/BAT) and Pretreatment Standards for Existing Sources (PSES) were selected based on an analysis of treatment units in-place according to the data supplied in the detailed surveys. A summary of these technology options are shown in the Table VII.D–3.

TABLE VII.D–3.—BPT/BCT/BAT/PSES TECHNOLOGY OPTIONS CONSIDERED FOR THE MEAT AND POULTRY PROCESSING INDUSTRY

Treatment units	Technology options [1]								
	1	2	3	4	5	PSES 1	PSES 2	PSES 3	PSES 4
Screen	X	X	X	X	X	X	X	X	X
Dissolved air floatation (DAF)	X	X	X	X	X	X	X	X	X
Equalization tank						X	X	X	X
Anaerobic lagoon	X	X	X	X	X				
Biological treatment with nitrification	X [1]	X	X	X	X		X	X	X
Biological treatment with nitrification and denitrification			X	X	X			X	X
Biological treatment with nitrification and denitrification and phosphorous removal				X	X				X
Filter					X				
Disinfection	X	X	X	X	X				

X: treatment unit is required for that option.
[1] Nitrification is limited for Option 1.
Note 1: EPA only considered Option5 for poultry facilities.

c. Treatment-in-Place Frequency of Occurrence

The frequency of occurrence for specific treatment units was an important factor in EPA's cost estimates. To evaluate treatment-in-place, EPA categorized MPP Detailed Survey responses into two size groups: small and non-small (medium, large, very large). Data provided in the MPP Detailed Survey were not sufficiently detailed to allow further subdividing the non-small grouping into individual groupings for medium, large, and very large facilities. EPA also considered frequency of treatment units by discharge status (direct or indirect).

The Agency evaluated the wastewater treatment systems of all the facilities currently in the MPP Detailed Survey database. To determine the wastewater treatment upgrades necessary for the facilities to be in compliance with each regulatory option, the Agency compared the existing treatment system of the facility to the list of treatment units for each regulatory option (Table VII.D–3). EPA determined the treatment unit frequency of occurrence for each of the 76 model facilities. Treatment unit frequency of occurrence is defined as the ratio of the number of facilities that have the treatment unit in place (or other treatment units that can perform the same function) to the total number of facilities in that subcategory. The frequency of occurrence distribution across medium, large, and very large facilities was assumed to be identical. Facilities that do not have the treatment unit require upgrading costs to achieve the performance of the proposed technology options.

d. CAPDET Computer Model

The Computer Assisted Procedure For Design And Evaluation Of Wastewater Treatment Systems (CAPDET) computer model requires design specifications and pollutant wastewater concentrations as its input. Data collected through survey responses, site visits, sampling episodes, and literature were used to run the CAPDET model. The input wastewater flow for a particular subcategory was taken equal to the model flow of that subcategory. Although default influent concentration values are provided in CAPDET, EPA used sampling and survey data from MPP facilities to extent available for purposes of running the cost model. The influent concentrations for a particular subcategory were determined through the use of EPA sampling data. In general, data from sampling locations that represent influent concentrations of the wastewater treatment system for each regulatory option were selected. When data from multiple facilities were identified for a regulatory option, an average of the concentrations was derived. EPA excluded a limited amount of sampling and survey data that were considered outliers based on engineering judgement. If data were not available, EPA derived data from similar operating facilities having similar wastewater characteristics. Default values provided in CAPDET were used for several parameters for which no sampling value was available (e.g., percent volatile solids, cations, anions, non-degradable fraction of VSS). Soluble COD and settleable solids concentrations were derived based on literature. Desired effluent concentrations for a particular subcategory for each option were determined from EPA sampling episodes and from detailed survey responses. EPA selected data from best performing red meat, poultry, rendering, and mixed facilities for each option based on effluent concentrations and the treatment scheme the facilities had in-place. If data were not available, EPA derived data from similar operating facilities having similar wastewater characteristics. Remaining design specifications were determined from literature, survey responses, site visits, and sampling episodes.

e. Cost Components

Capital cost, annual cost, performance cost, and retrofit costs are the four major components of costs used for estimating the incremental industry-wide cost for the proposed regulation.

The construction costs of treatment units for each subcategory were obtained as an output from CAPDET model runs. Based on the cost information obtained from the costing document for centralized waste treatment industry (Docket No. W–01–06, Record No. 00138), the direct (excluding construction cost) and indirect costs were estimated to be 69 percent of the construction cost of the treatment units. The break up of the direct and indirect costs are provided in Table VII.D–4. The capital cost for a treatment unit was obtained by using the following equation:

Capital Cost of a treatment unit = 1.69 × Construction cost of the treatment unit

TABLE VII.D–4.—COST FACTORS USED TO ESTIMATE CAPITAL COSTS

Cost item	Cost type	Cost factor (% of construction cost)
Construction cost	Direct	100
Piping	Direct	17
Instrumentation and controls.	Direct	13
Engineering	Indirect	19.5
Contingency	Indirect	19.5
Total capital cost		169

The annual (operations and maintenance) costs of the treatment units for each subcategory were obtained from the CAPDET model. The incremental annual costs were associated with the following cost items:

- Labor (operation, maintenance, laboratory, administrative and general),
- Maintenance (materials and vendors),
- Chemical Costs,
- Energy Costs, and
- Sludge disposal costs.

f. Incremental Costs Calculation

EPA estimated the incremental cost for each regulatory option by comparing the existing treatment system of the facility identified in the MPP Detailed Survey with that of the proposed regulatory option (*see* Table VII.D–3) and costed for the additional treatment units needed to meet the regulatory option. Therefore, a facility identified by the MPP Detailed Survey that has a treatment train similar to a regulatory treatment option does not accrue any additional cost for that regulatory option. It is expected that the facilities with a technology-in-place (TIP) comparable to an option should be able to meet the proposed effluent limits of that option. However, in reality, some of these facilities with TIP may not be able to meet the proposed effluent limits because of inadequate operational practices compared to the proposed treatment unit. Therefore, to calculate the cost of improving performance, the Agency assumed a 10 percent increase in the annual costs of all the facilities with TIP as performance cost.

Since many of the existing treatment units in the facilities could be retrofitted to meet stricter regulatory options, EPA investigated the costs required to upgrade such systems. The Agency found that all nitrification systems (Option2 and PSES2) could be retrofitted to a nitrification and denitrification system (Option3, PSES3). Similarly, all nitrification and denitrification systems could be retrofitted to a nitrification, denitrification, and phosphorous removal (Option4, Option5, PSES4) system. Based on information provided by industry experts, EPA estimated that facilities with a nitrification system in place would incur 33 percent of the capital cost of a new nitrification system to upgrade the system to a nitrification and denitrification system (Docket No. W–01–06, Record No. 00130). Retrofit capital costs to convert a nitrification system to a nitrification and denitrification and phosphorous removal system were estimated to be 54 percent of the capital cost of a new nitrification system (ibid). For direct dischargers, the Agency assumed that the retrofit costs to convert a nitrification system to: (1) A nitrification and denitrification system; and (2) a nitrification and denitrification and phosphorous removal system are 45 percent and 65 percent respectively of the cost of a nitrification and denitrification system. See the MPP Development Document for more information on what assumptions EPA used in estimating retrofit costs.

g. Summary of Annualized Engineering Costs

The recommended options with annualized costs for the non-small size category are shown in Table VII.D–5. These costs include the estimated capital investment costs annualized as described in Section VIII of this notice. EPA used the retrofit costs to estimate the total compliance cost for this industry ($80 million). EPA notes that retrofit options are available to MPP facilities and are less costly than construction of new treatment units (e.g. tanks, piping) (Docket W–01–06, Record No. 00166.) EPA's basis for selecting the retrofit costs is that operators will choose the less costly compliance option and retrofit their WWTP when the retrofit option is available. EPA solicits comment on which costs (i.e., retrofit or upper bound) is most appropriate to consider for the final rule.

TABLE VII.D–5.—ANNUALIZED COSTS (1999$) OF THE RECOMMENDED OPTIONS FOR NON-SMALL SIZE CLASS

Regulatory subcategory (RS)	Discharge type	Option	Annualized cost (millions per year)
A, B, C, D	Direct	BAT3	42.2
F, G, H, I	Direct	BAT3	0.5
J	Direct	BAT2	0.6
K	Direct	BAT3	34.5
L	Direct	BAT3	2.2

E. Approach to Estimating Pollutant Reductions

1. Sources and Use of Available Data

EPA used analytical data provided by the industry in the detailed surveys and analytical data from facilities sampled to estimate baseline and post-compliance pollutant concentrations. Detailed Surveys for 48 direct dischargers and 103 indirect dischargers were used in the analysis. In addition, EPA used data from the sampling efforts conducted at 11 MPP facilities. As previously stated, two facilities were sampled by EPA and nine facilities carried out self-sampling with technical oversight provided by EPA.

2. Calculation of Average Concentrations from Analytical Data

For each facility that provided analytical data as part of their detailed survey, EPA used the average concentrations provided in the detailed survey for each pollutant of concern in the baseline loading analysis. When a facility did not provide average concentrations but instead provided non-averaged, self-monitoring data, EPA calculated an average value to use as the baseline concentration. In calculating proposal average baseline concentrations, EPA did not edit any analytical data provided in the detailed survey. In addition, EPA did not use sample detection limits or the maximum and minimum concentration values when average values were not available

in the survey. However, for EPA sampling episodes where concentrations of pollutants were reported below the sample detection limit, EPA used the reported sample detection limit as the concentration. Analytical data from the sampling episodes used for both baseline and regulatory options loading calculations were averaged on a daily basis for each sample location.

3. Establishment of Baseline Concentration Data

EPA derived baseline concentrations for each POC for each of the 151 (= 48 direct + 103 indirect) facilities used to generate pollutant load reduction estimates. EPA used the following hierarchy of methods to calculate baseline concentrations for each of the 151 facilities:

- When a facility provided concentration data (average values provided in the detailed survey and averages calculated by EPA as described previously) for any of the 37 POCs, EPA used this average concentration.
- In the absence of any baseline concentration data in the detailed survey, EPA transferred analytical data from EPA sampling episodes for similar meat and poultry processors and similar treatment in-place. When such sampling data were available for more than one episode, EPA used an average concentration value of these episodes.
- For POCs where EPA sampling episode data were not available to transfer concentration data, the Agency used average concentrations from both detailed survey and EPA sampling episode data from facilities with the same processing category and treatment option to calculate an average baseline concentration for each pollutant in a subcategory.
- When data from facilities in the same meat and poultry processing category were not available, an average concentration of facilities in similar meat and poultry processing categories was used instead.
- When all of the above imputation methods failed to derive pollutant concentrations, then facility data from other, similar treatment options were used. The size of the facility (small or non-small) was not considered in transferring data within similar meat and poultry processing categories and treatment options.

After pollutant data were estimated for each facility, EPA calculated average baseline concentrations from the individual facilities, separating indirect dischargers from direct dischargers and small facilities from non-small facilities. This process yielded a total of four averages for each meat and poultry processing category: (1) Direct, small; (2) direct, non-small; (3) indirect, small; and (4) indirect non-small. When a particular meat and poultry processing category was not represented by the facilities in the detailed survey, EPA used available data from similar meat and poultry processing categories in the detailed survey to derive average pollutant concentrations for the missing meat and poultry processing category. Averages were comprised of meat subcategory averages that best represent the subcategory without facilities. This calculation used both small and non-small facilities. These estimates were then used to generate baseline pollutant concentrations for each of the 19 meat and poultry processing categories (*see* Table VII.D–1) being analyzed by EPA.

4. Derivation Average Effluent Concentrations Representing Implementation of Regulatory Options

For each regulatory option being considered, EPA calculated average effluent concentrations for effluent pollutant concentrations that represent the best performing facilities (from the respective of types of treatment in-place and degree of expected pollutant removals). For purposes of proposal, EPA relied on both EPA sampling episode data and facility-submitted data to calculate average effluent concentrations. Average effluent concentrations were calculated for the following six meat and poultry processes:

- first processing (meat);
- further processing (meat);
- rendering (meat);
- first processing (poultry);
- further processing (poultry); and
- rendering (poultry).

Average effluent concentrations were derived for each of the above six meat and poultry processes from effluent concentration data collected during the sampling episodes. Specifically, for each regulatory option, effluent concentration data from representative facilities were used to derive average effluent concentrations for each POC. In the absence of data for a particular meat and poultry process at a facility, pollutant concentration data from another facility within the same grouping as well as applicable performance data (i.e., pollutant removal efficiencies from a facility representative of the regulatory option) were used to derive appropriate concentration data. These average effluent concentrations were derived irrespective of facility size.

In order to derive average effluent concentrations for the other 13 meat groupings (other than the six above), EPA used typical flow values provided in the detailed survey to determine the percentage of flow attributable to each of the three processes (first, further and rendering). The Agency used these flow values and pollutant concentrations from the above six subcategories to derive average effluent concentrations for the various combinations of processes such as first and further, first and render, etc. Average effluent concentrations for the rendering subcategory (meat and poultry combined) were derived by averaging poultry rendering average effluent concentrations with meat rendering average effluent concentrations. Likewise, average effluent concentrations for further processing mixed subcategory were derived by averaging average effluent concentrations from poultry further processing with average effluent concentrations from meat further processing. For regulatory option BAT1, average effluent concentrations were based on those developed for regulatory option BAT2 for all pollutants except ammonia, nitrite-nitrate, and TKN. Because under regulatory option BAT1 EPA assumed less efficient nitrification was occurring and all of the sampled facilities were categorized as operating at levels at least equivalent to BAT2, EPA estimated average effluent concentrations for ammonia, nitrite-nitrate, and TKN. These estimates were generally derived by calculating the average ammonia effluent concentrations from facilities that submitted analytical data as part of their detailed survey and that listed their treatment system type as conventional (EPA assumed that these facilities are not operating their treatment systems to specifically achieve nitrification, and therefore would be representative of performance of the BAT1 regulatory option). EPA also assumed that the total nitrogen for regulatory option BAT1 would be equal to the total nitrogen for regulatory option BAT2 (i.e., the total and organic nitrogen would not change from BAT1 to BAT2, just the form that the nitrogen was in). Based on the total nitrogen and ammonia concentrations, EPA then derived nitrite-nitrate and TKN concentrations based on theoretical relationships between the forms of nitrogen.

5. Calculation of Pollutant Loadings

EPA estimated baseline and regulatory option pollutant loadings for all 37 POCs using the average concentrations for each subcategory and national flow (average) values derived from the screener survey for small and non-small facilities. The following

equation was used for conventional pollutants, nutrients, metals and pesticides:

Load = Flow x Conc. x 8.345

where:

Load = Pollutant loading, lbs/day

Flow = Flow rate, million gallons per day

Conc. = Average pollutant concentration, mg/L

8.345 = Conversion factor, lbs/gal and mg/L.

For microbiological pollutants, the loads were computed using the following equation:

Load = Flow x Conc. x 37.8

where:

Load = Pollutant loading, Million cfu/day

Flow = Flow rate, million gallons per day

Conc. = Average pollutant concentration, cfu/100 mL

37.8 = Conversion factor, L/gal and mL/L.

For Cryptosporidium, the loads were computed using the following equation by the following equation:

Load = Flow x Conc. x 3.78

where:

Load = Pollutant loading, Million/day

Flow = Flow rate, million gallons per day

Conc. = Pollutant concentration, per L

3.78 = Conversion factor, L/gal.

EPA estimated pollutant loading for the entire industry using the national estimates of the number of facilities in each meat subcategory multiplied by the subcategory loadings.

VIII. Economic Analysis

A. Introduction

EPA's economic analysis assesses the costs and a variety of impacts of this proposal. This section reviews that analysis while the record for the proposal contains the detailed results of this analysis. In particular, the MPP Economic Analysis (EA) presents the results of the assessment. The MPP EA estimates the economic and financial costs of compliance with the proposal on individual facilities and companies. The MPP EA also considers impacts on new sources, foreign trade impacts and market impacts. The MPP EA also includes an analysis detailing the effects on small meat products businesses. Finally, the MPP EA contains the results of a cost-effectiveness analysis for the meat and poultry products industry.

B. Economic Data Collection Activities

As noted above (*see* Section V.B), EPA sent a survey to a representative sample of meat and poultry products facilities. However, that data has not been fully processed and, with some exceptions, is generally not available for use in the analysis for today's proposal. EPA has thus relied on secondary data sources, most importantly on data from the 1997 U.S. Census of Manufacturers.

a. Census of Manufacturers Data

For the economic analysis used in today's proposal, EPA primarily used data taken from the 1997 Census of Manufacturers published by the U.S. Census Bureau. These data are published according to four NAICS codes applicable to the meat and poultry products industry: 311611 Animal (except Poultry) Slaughtering, 311612 Meat Processed from Carcasses, 311613 Rendering and Meat Byproduct Processing, and 311615 Poultry Processing. The Census data contains a large number of financial statistics that are aggregated to the NAICS-code level. The Census data also contains some information disaggregated by size of establishment; this information is employees, payroll, cost of materials, value of shipments, and a handful of other statistics. Finally, EPA was able to obtain from the Census Bureau the mean, standard deviation, covariance, and correlation of value of shipments, payroll, and cost of materials disaggregated by size of establishment. EPA used this information to create model facilities that were matched to the engineering model facilities (*see* Section VII).

b. MPP Screener and Detailed Survey

EPA was able to use items from the screener and detailed survey in its analysis for the proposal. The questions in both the screener and detailed surveys related to amount of production (of various meat types and processing operations), employees at the facility, and employees at the company that owns the facility are most relevant to the economic analysis. The detailed survey collected a large amount of information about the individual facilities and companies that own those facilities, including general information about the type of ownership, facility and company employment, interest and discount rates, and income statements for 1997–1999 and balance sheets for 1999 (both income statement and balance sheet information were collected for the facility and the company). EPA utilized all of the information from the screener survey in this proposal but was only able to use selected items from the detailed survey due to the additional complexity and time required to process the detailed surveys. This data will be used in EPA's post-proposal analyses and presented in its forthcoming NODA.

c. Other Data Sources

Although EPA relied primarily on its two surveys and the Census of Manufacturers, other data sources informed the analysis where appropriate. These other sources include numerous journals, academic publications, data and reports from USDA and other government agencies, and industry publications such as *Meat & Poultry* and *Meat Processing.*

C. Annualized Compliance Cost Estimates

EPA estimates that 246 direct discharging meat and poultry products facilities would be regulated by this proposal. EPA also considered regulating the 731 largest indirect discharging facilities. EPA calculated the economic impact on each of the facilities based on the cost of compliance using the technology basis for each of the options considered for the proposal. For direct dischargers, EPA calculated impacts for compliance with BPT/BCT/BAT; for indirect dischargers, EPA calculated impacts for compliance with PSES. As detailed in Section XI, EPA based the proposed standards for direct discharges on Option 3 (except for the Rendering Subcategory, which are based on Option 2) and EPA is proposing no limitations or standards for indirect dischargers. EPA also calculated costs and impacts for the 4670 smallest facilities; these results are presented in the EA. These small facilities are not included in the estimates discussed in this section unless specifically noted.

The technologies that are the basis for today's proposal are estimated to have a total pre-tax annualized cost of $80.0 million and a total post-tax annualized cost of $50.5 million. The pre-tax annualized costs are the most complete estimates of annualized control costs, but the post-tax costs more accurately reflect the costs businesses will incur because they net out tax savings. For that reason, both pre-tax or post-tax costs are used in the economic impact analysis. Pre-tax costs, however, more accurately reflect the total cost to society of the rule and are used in the EO 12866 analysis, the cost-effectiveness analysis, and elsewhere.

D. Economic Impact Methodologies

EPA's analysis of the economic impacts of the proposed guidelines and standards for the meat and poultry products industry examines the costs of the proposed regulations on the economic viability of facilities and firms

using relatively standard financial analysis tools. A MPP firm is a business unit or enterprise that owns or operates a collection of MPP facilities. Since the costs are estimated for model facilities, the economic impact analysis is also performed on analogously constructed economic model facilities. This section describes the construction of those facilities and the impact analysis itself as well as a description of what the analysis will look like when the detailed survey data is available.

1. Economic Model Facilities

EPA based its economic model facilities on the U.S. Census Bureau's 1997 Economic Census of the four NAICS codes for meat and poultry product industries (NAICS 311611, 311612, 311613, and 311615). EPA used Census revenue and cost information at both the employment class (that is, disaggregated into size groupings based on annual production) and the industry level. At the employment class level, EPA used the Census' value of total shipments (a proxy for total revenues), payroll and material costs data. (In some cases, value of total shipments may be understated or overstated if survey respondents do not receive the full value for their shipments, as may be the case if one facility ships to another facility owned by the same company. EPA did not, however, adjust these values.) EPA used industry level data on benefits, depreciation, rent, and purchased services and attributed it to the employment class level using a small number of reasonable assumptions (*e.g.*, employment benefits are proportionate to payroll, refuse removal costs are proportionate to material costs). EPA divided each component of facility income by the number of establishments in the employment class to calculate the average for that class. EPA then estimated model facility earnings before interest and taxes (EBIT) in each class as the average value of shipments minus payroll, material costs, benefits, depreciation, rent, and purchased services. Because revenues, payroll and cost of materials are the most significant components of EBIT, the relative error introduced by attributing industry level data to the employment class level should be small.

EPA used data from Census' Annual Survey of Manufacturers (ASM), 1997 Economic Census, and the Internal Revenue Service code combined with additional assumptions to estimate model facility net income and cash flow from EBIT. EPA assumed model facility EBIT is equal to business entity taxable income as the basis for calculating tax payments; EPA then applied 1999 federal and an average of state corporate tax rates to EBIT. EPA estimated industry level interest payments using a combination of ASM data on past investment by industry, Census data on relative investment in buildings and equipment, and assumptions about investment behavior (e.g., all investment in each year was funded through bank loans, the interest rate on those loans was equal to the nominal prime rate for that year plus 1 percent). Interest payments were then attributed to each employment class based on the percentage of industry investment accounted for by that employment class in the 1997 Census. EPA estimated net income as EBIT less estimated tax and interest payments for each model facility. Cash flow was then calculated as net income plus depreciation. EPA inflated all model income measures from the Census year, 1997, to the baseline year, 1999, using the implicit price deflator for the meat and poultry products industry.

However, the model facility in reality represents a distribution of facility incomes around the mean. Therefore, EPA estimated this distribution of income around the model facility mean by obtaining from Census a special tabulation of the variances and covariances for value of shipments, material costs, and payroll in each employment class. EPA assumed that the distribution of each variable is normal; given the relatively large number of observations within each employment class, this assumption is reasonable. Because model facility EBIT is calculated as a linear function of the means of its components, the variance of EBIT for each employment class can be calculated as a linear function of the variances and covariances of the components using well established formulae. Because the actual income measures differed from the approximate income measure (EBIT) on which variance was estimated, EPA adjusted the variance of each income measure using standard rules concerning the expected value of mean and variance.

In order to perform the economic impact analysis, EPA matched its economic model facilities to the engineering model facilities used to estimate costs. All red meat (or meat) facilities that perform animal slaughter, whether alone or in combination with other processes, were assigned economic model facilities from NAICS 311611. Red meat facilities that perform further processing but no slaughtering activities processes were assigned economic model facilities from NAICS 311612, as were facilities that process a mix of both red meat and poultry (approximately 70 percent of their production is red meat). Facilities that process poultry, with or without slaughter, were assigned economic model facilities from NAICS 311615. Finally, facilities that only perform rendering operations were classified as NAICS 311613. The model economic facilities were further matched to the model engineering facilities by size. EPA used production from each engineering model, combined with representative meat product prices for 1999, to estimate model facility revenues. The engineering model was then assigned an economic model that most closely matched its estimated revenues.

The economic analysis is based on a wide variety of sources including the screener survey and publicly available data. However, the facility counts in each class and subcategory are based on estimates derived from the stratified random sampling procedure used to determine survey recipients. Sixty-five facilities were specifically selected to receive surveys (''certainty facilities''). Information on these 65 certainty facilities was not available in time to complete subcategorization and analysis of these facilities because information on these facilities was collected in the detailed survey and it could not be processed as quickly as the screener survey. Therefore, to project potential impacts to these 65 certainty facilities, EPA totaled impacts by subcategory (or class) and discharge type, then inflated these impacts by 8 percent. EPA is thus implicitly assuming that the 65 certainty facilities are similar to the model facilities used in the remainder of the analysis, and impacts are therefore proportionate to impacts projected for other facilities. However, EPA could not identify the subcategories or classes in which these impacts may occur in time to include precise estimates for all aspects of the analysis. Instances where the certainty facilities are excluded from the analysis are indicated clearly.

2. Methodology for Calculating Impacts

EPA calculated economic impacts of facilities and firms incurring the costs of compliance with the proposal. EPA estimated impacts at the facility-level in several ways: using four financial ratios and by estimating closures in two different ways. EPA also estimated firm impacts using return on assets (ROA) and Altman's Z'. EPA also estimated costs in two different ways (*see* Section VII): one estimate assumes that facilities must install each individual technology included in a given option, another option assumes that facilities would be

able to meet the limitations with some fraction of this full cost. More specifically, facilities with nitrification (option 2) already in place would be able to upgrade their existing systems to denitrification and phosphorus removal without incurring the full capital cost of those technologies. These cost estimates are referred to as retrofit costs.

EPA used four financial ratios to estimate impacts. Each of these is a ratio of annualized compliance cost to another measure: revenues, earnings before interest and taxes (EBIT), cash flow, and net income. (EPA used pretax costs for the revenue and EBIT ratios and used the post-tax costs for the net income and cash flow ratios.) These measures are listed in decreasing order and their respective ratios will correspondingly increase for a given cost level. EPA found that these four cost ratios are highly correlated and do not individually provide unique information. That is, for all model facilities EPA found that the cost/revenue ratio is smaller than the cost/EBIT ratio, which is smaller than the cost/cash flow ratio. (This correlation could be a factor of the highly aggregated data on which model facilities are based because this aggregated data masks variability across facilities.) In order to simplify the presentation, EPA chose the ratio of cost/net income as its preferred (central) measure of economic achievability (the results for all of the ratios are presented in the MPP EA).

EPA also estimated the probability that a facility would close, because the cost of compliance exceeded one of the other financial measures. In the analysis, EPA used both cash flow and net income. EPA estimated these probabilities by using the variance and covariance information provided by the Census Bureau to derive the variance of both cash flow and net income. The probability that annualized compliance costs are greater than either of these measures provides a rough estimate of the probability of that facility closing. While EPA believes this approach is promising, EPA has less confidence in these closures estimates for several reasons which are discussed in detail in the MPP EA. Primarily, these estimates predict that improbably large percentages of facilities have negative net income at the baseline. Because EPA has less confidence in these closure numbers, they are not relied upon for economic achievability determinations, but the estimates are presented in the MPP EA.

EPA notes that the use of average ratios could mask considerable variability in economic impacts. This is a shortcoming of the use of model facilities. EPA has attempted to ameliorate this shortcoming to a practicable extent by using multiple model facilities within each subcategory and by being relatively conservative in its choice of average ratios that are deemed economically achievable. EPA also considered using the probability estimates discussed in the previous paragraph but is not relying on them for its economic achievability determinations. EPA is considering, however, refined probability estimates.

As EPA continues to process the data from the detailed survey, we intend to use that data in the economic analysis for the final rule. The use of this more detailed economic data will allow the use of more facilities that better represent financial conditions across the industry and more sophisticated financial techniques such as discounted cash flow models. These models are fully documented in the MPP EA. A discounted cash flow model compares the present value of forecasted cash flow (or, alternatively, net income) with the present value of the regulatory option. If the present value of the regulatory costs exceeds that of the projected cash flow, it does not make financial sense to upgrade the facility. That is, if the present value of projected cash flow is positive before, but negative after, the incurrence of regulatory costs, the facility is presumed to close. For the analysis, cash flow at the facility-level is defined as the sum of net income and depreciation. Cash flow is widely used within industry in evaluating capital investment decisions because both net income and depreciation (which is an accounting offset against income, but not an actual cash expenditure) are potentially available to finance future investment. However, assuming that total cash flow is available over an extended time horizon to finance investments related to environmental compliance could overstate a facility's ability to comply because depreciation is the facility's way of accounting for the cost of replacing existing capital. The facility may not be able to afford this replacement if depreciation is instead allocated to environmental compliance. EPA solicits comment on the economic analysis in this proposal and the methods it is considering for subsequent analyses, particularly the use of cash flow as a measure of resources available to finance environmental compliance and suggestions for alternative methodologies.

EPA also estimated firm-level impacts to take into account the aggregate impacts on firms that own multiple facilities. These impacts could be especially important in a concentrated industry such as the meat and poultry products industry, in which some firms own dozens of facilities. To examine firm-level impacts, EPA employed an Altman Z'-score analysis, which employs a statistical technique called multiple discriminant analysis to predict company bankruptcy based on a weighted combination of financial ratios. The Altman Z'-score is a widely-used tool used to predict firm ''financial distress'' or bankruptcy. It takes into account a company's total assets, total liabilities and earnings, which are influenced by total compliance capital costs incurred by a company because of the proposal as well as pre-tax annualized compliance costs.

The score places firms into three levels of financial health: where financial distress is unlikely, where financial distress is indeterminate, and where financial distress is likely. EPA considered firms that move from an indeterminate or unlikely distress prediction to a likely distress prediction to be at risk of bankruptcy or other serious financial disruption. The actual effects of financial distress are inherently unpredictable and a firm may avoid legal bankruptcy by taking other measures such as laying off employees, closing facilities, or selling assets. These firms still may incur very significant impacts even if they do not file for bankruptcy.

EPA developed a market model to examine the impacts of the proposal on the price and output of various meat and poultry products. The market analysis for each product depends not only on the compliance costs for that product but also on the impact of costs on the prices of the other three meat and poultry products because as prices for one product rise, consumers will purchase less of that product and more of the other three products. EPA selected a perfectly competitive structure for the meat and poultry products market model after performing an extensive literature search. EPA developed standard domestic supply, domestic demand, import supply, and export demand equations for each meat and poultry product. Domestic demand for each meat and poultry product is specified as a function of the price of the other three meat and poultry products in addition to its own price. EPA used USDA data to determine baseline market prices and quantities. Key model parameters (e.g., price elasticities) were selected from existing published sources after an extensive search. For each meat and poultry product market to be in equilibrium, U.S. domestic demand plus foreign

demand (exports) must equal U.S. domestic supply plus foreign sales (imports) at its current market price.

Compliance costs shift the supply curve for each meat and poultry product by the average per-unit compliance cost for that product. Given the supply shift for each product, EPA solves for the post-regulatory set of meat prices that results in equilibrium in all four markets. This solution provides estimates of post-regulatory impacts. Finally, the post-regulatory prices are substituted back into the individual component equations domestic supply, domestic demand, import supply, and export demand for each meat and poultry product. Changes in prices and these quantities for each meat and poultry product measure the market-level impacts of today's proposal.

E. Costs and Impacts of BPT/BCT/BAT Options

Tables VIII.E–1 through VIII.E–5 present the cost and cost/net income results for the options considered by EPA for BPT, BCT, and BAT. These are options 2 through 4 for subcategories A–D, F–I, and J, and options 2 through 5 for subcategories K and L. EPA was unable to identify any direct dischargers that did not have at least option 1 in current use. Costs for this option are therefore zero for direct dischargers and are not presented.

EPA is required to determine economic achievability for individual subcategories and the industry as a whole. Thus, impacts are presented by subcategory. This presentation necessarily masks variability in costs and impacts across different types and sizes of facilities in each subcategory. More detail on these results is presented in Chapters 5 and 6 of the MPP EA. The MPP EA also presents results for the other measures of economic impact discussed in Section IV.E. The following 5 tables exclude the 65 certainty facilities from both costs and facility counts.

TABLE VIII.E–1.—COST AND IMPACTS FOR SUBCATEGORY A–D, BPT/BCT/BAT OPTIONS

[$1999 millions—66 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
2	4.86	0.25	5.49	0.28
3	24.7	1.30	36.3	1.90
4	42.4	2.38	72.3	4.11

TABLE VIII.E–2.—COST AND IMPACTS FOR SUBCATEGORY F–I, BPT/BCT/BAT OPTIONS

[$1999 millions—19 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
2	0.210	0.13	0.221	0.14
3	0.310	0.29	0.415	0.4
4	1.94	1.36	4.28	2.91

TABLE VIII.E–3.—COST AND IMPACTS FOR SUBCATEGORY J, BPT/BCT/BAT OPTIONS

[$1999 millions—21 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
2	0.304	0.68	0.304	0.68
3	2.51	5.70	3.55	8.03
4	2.97	6.74	3.87	8.78

TABLE VIII.E–4.—COST AND IMPACTS FOR SUBCATEGORY K, BPT/BCT/BAT OPTIONS

[$1999 millions—88 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
2	2.52	0.32	2.63	0.34
3	20.1	2.73	29.5	3.98
4	26.1	3.56	37.5	5.14
5	15.5	2.15	40.7	5.61

TABLE VIII.E–5.—COST AND IMPACTS FOR SUBCATEGORY L, BPT/BCT/BAT OPTIONS

[$1999 millions—15 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized ompliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
2	0.156	0.36	0.17	0.39
3	1.28	3.01	1.79	4.23
4	1.78	4.12	2.65	6.04
5	1.00	2.83	2.37	6.71

F. Results of BCT Cost Test

In July 1986, EPA explained how it developed its methodology for setting effluent limitations based on BCT (51 FR 24974). EPA evaluates the reasonableness of BCT candidate technologies—those that remove more conventional pollutants than BPT—by applying a two-part cost test: A POTW test and an industry cost-effectiveness test.

EPA first calculates the cost per pound of conventional pollutant removed by industrial dischargers in upgrading from BPT to a BCT candidate technology, and then compares this cost to the cost per pound of conventional pollutants removed in upgrading POTWs to advanced secondary treatment (*i.e.,* ''the POTW test''). The upgrade cost to industry must be less than the POTW benchmark of $0.25 per pound (in 1976 dollars) or $0.63 per pound (in 1999 dollars). In the industry cost-effectiveness test, the ratio of the cost per pound to go from BPT to BCT divided by the cost per pound to go from raw wastewater to BPT for the industry must be less than 1.29 (that is, the cost increase must be less than 29 percent).

For purposes of this analysis, EPA is assuming that for subcategories A–D, F–I, and J the existing BPT limits are equivalent to the baseline. Thus, EPA is considering only options 2 through 4 as BCT candidate options. All BCT analyses include the 65 certainty facilities.

Table VIII.F–1 presents the calculations for the BCT cost test using both the retrofit and upper-bound costs for subcategories A–D, F–I, and J (those subcategories with existing BPT limits). Option 2 passes the POTW test in subcategories A–D and J, while no other option does in those subcategories, nor do any of the options in subcategory F–I. Options 3 and 4 therefore do not pass the BCT cost test and it is not necessary to perform the industry cost-effectiveness test for these options, nor is it necessary to perform the industry cost-effectiveness test for subcategory F–I. The choice of retrofit versus upper-bound costs does not affect the result of the test (these two costs are identical for option 2, so the cost test result is the same for either set of costs).

TABLE VIII.F–1.—POTW COST TEST CALCULATIONS, SUBCATEGORIES A–J

Option	Conventional pollutant removals (M lbs)	Retrofit costs			Upper-bound cost		
		Pre-tax total annualized costs ($1999 M)	Ratio of costs to removals ($/lb.)	Pass POTW test?	Pre-tax total annualized costs ($1999 M)	Ratio of costs to removals ($/ lb.)	Pass POTW test?
Subcategory A–D							
2	22.5	9.93	0.44	Y	9.93	0.44	Y
3	23.7	42.3	1.78	N	59.5	2.51	N
4	25.6	73.5	2.87	N	118	4.60	N
Subcategory F–I							
2	0.461	0.404	0.88	N	0.404	0.88	N
3	0.503	0.537	1.07	N	0.692	1.38	N
4	0.545	3.53	6.47	N	7.01	12.86	N
Subcategory J							
2	5.94	0.552	0.09	Y	0.552	0.09	Y
3	6.16	4.28	0.70	N	5.80	0.94	N
4	6.62	4.98	0.75	N	6.31	0.95	N

Table VIII.F–2 presents the industry cost-effectiveness test for option 2 for subcategories A–D and J. This option fails the test for subcategories A–D but passes the test for Subcategory J. Thus, BCT is not revised for subcategories A–D or F–I, but BCT is set equal to option 2 for subcategory J.

TABLE VIII.F–2.—INDUSTRY COST-EFFECTIVENESS TEST CALCULATIONS, SUBCATEGORIES A–D AND J

BCT option	RAW–BPT conventional pollutant removals (M lbs)	RAW–BPT pre-tax total annualized costs (1999$ M)	RAW–BPT ratio of costs to removals (1999$ M) [A]	BPT–BCT ratio of costs to removals (1999$/ lb.) [B]	BPT–BCT raw-BPT ratio [B]/[A]	Pass industry cost-effectivenss test?
Subcategory A–D						
2	1,521	270,240,482	0.178	0.40	2.25	No.
Subcategory J						
2	19.63	10,001,886	0.509	0.12	0.24	Yes.

Table VIII.F–3 presents the calculations for the BCT cost test using both the retrofit and upper-bound costs for subcategories K and L. The test is calculated from the proposed BPT option, which is option 3. (If the test were to be conducted from a less stringent option the outcome would not change. These calculations are presented in the MPP EA.) Neither option 4 or option 5, the only options more stringent than BPT for these subcategories, passes the POTW test. These options therefore do not pass the BCT cost test and it is not necessary to perform the industry cost-effectiveness test in these subcategories. Thus, BCT is set equal to BPT for these subcategories. More detail on the calculation and inputs of the BCT tests is contained in the record (Docket No. W–01–06, Record No. 25,002—BCT Analysis for Meat and Poultry Products Point Source Category).

TABLE VIII.F–3.—POTW COST TEST CALCULATIONS, SUBCATEGORIES K AND L

Option	Conventional pollutant removals (M lbs)	Retrofit costs			Upper-bound costs		
		Pre-tax total annualized costs ($1999 M)	Ratio of costs to removals ($/ lb.)	Pass POTW test?	Pre-tax total annualized costs ($1999 M)	Ratio of costs to removals ($/ lb.)	Pass POTW test?
Subcategory K							
3	2.44	34.5	N/A	N/A	48.4	N/A	N/A
4	3.95	44.2	11.20	N	61.3	15.52	N
5	4.79	66.1	13.80	N	66.1	13.80	N
Subcategory L							
3	0.136	2.18	N/A	N/A	2.95	N/A	N/A
4	0.196	3.03	15.48	N	4.32	22.06	N
5	0.230	3.85	16.72	N	3.85	16.72	N

G. Costs and Economic Impacts of PSES Options

Tables VIII.G–1 through VIII.G–5 present the cost/net income results for the options considered by EPA for PSES. These are options 1 through 4 for subcategories A–D, F–I, and J, and options 1 through 54 for subcategories K and L. EPA is required to determine economic achievability for individual subcategories and the industry as a whole. Thus, impacts are presented by subcategory. This presentation necessarily masks variability in costs and impacts across different types and sizes of facilities in each subcategory. More detail on these results is presented in Chapters 5 and 6 of the MPP EA. The MPP EA also presents results for the other measures of economic impact discussed in Section IV.E. All figures in the following five tables exclude the 65 certainty facilities.

TABLE VIII.G–1.—COST AND IMPACTS FOR SUBCATEGORY A–D, PSES OPTIONS

[$1999 millions—60 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-Tax annualized compliance cost	Cost/net income (%)
1	1.83	0.27	4.30	0.57
2	43.3	5.28	91.3	10.4
3	52.4	6.53	59.0	7.21
4	64.4	7.36	74.3	8.14

TABLE VIII.G–2.—COST AND IMPACTS FOR SUBCATEGORY F–I, PSES OPTIONS

[$1999 millions—234 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-Tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
1	6.37	0.46	11.1	0.80
2	31.4	2.32	61.4	4.53
3	50.6	3.71	50.9	3.72
4	67.6	5.05	67.8	5.06

TABLE VIII.G–3.—COST AND IMPACTS FOR SUBCATEGORY J, PSES OPTIONS

[$1999 millions—75 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized	Cost/net income (%)
1	0.511	0.33	0.78	0.50
2	7.59	4.77	14.0	8.78
3	13.9	8.74	17.1	10.79
4	15.0	9.47	18.0	11.36

TABLE VIII.G–4.—COST AND IMPACTS FOR SUBCATEGORY K, PSES OPTIONS

[$1999 millions—138 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
1	3.24	0.28	6.50	0.55
2	54.5	4.20	114	8.71
3	76.8	6.16	81.5	6.53
4	80.5	6.52	83.9	6.80

TABLE VIII.G–5.—COST AND IMPACTS FOR SUBCATEGORY L, PSES OPTIONS

[$1999 millions—208 facilities]

Option	Retrofit costs		Upper-bound costs	
	Post-tax annualized compliance cost	Cost/net income (%)	Post-tax annualized compliance cost	Cost/net income (%)
1	5.17	0.87	9.12	1.50
2	34.2	5.23	63.3	9.63
3	45.4	6.99	45.6	7.00
4	58.0	8.95	58.1	8.96

H. Economic Impacts for New Sources

EPA is proposing NSPS limitations equivalent to the limitations that are established for BPT/BCT/BAT for all subcategories. These limitations are economically achievable for existing sources. In general, EPA concludes that new sources will be able to comply at costs that are similar to, or less than, the costs for existing sources. They may be able to comply at lower cost since new sources can apply control technologies more efficiently than sources that need to retrofit for those technologies. Therefore, NSPS limitations will not present a barrier to entry for new facilities.

EPA is not proposing to establish PSES or PSNS limitations for indirect dischargers, so there will be no impacts on new indirect dischargers. EPA solicits comment on whether EPA should set more stringent standards for either direct or indirect new sources.

I. Firm-Level Impacts

For those firms with available data, EPA estimated a baseline Z'-score and a corresponding score after the firm incurred the costs of complying with the proposal. EPA examined the company-level financial data in the detailed survey for the companies with complete and consistent data. This effort yielded 20 companies with appropriate data. These firms include most of the largest beef, pork, and poultry processing companies. These firms own 421

facilities, or an average of 21 facilities each. EPA estimated the number of facilities owned by each company using publicly available information such as trade publications and web sites as well as information from the detailed survey.

Because EPA does not have an exact accounting of the type and size of the facilities owned by each company, EPA estimated total compliance costs for each of these companies by constructing a production-weighted average facility compliance cost for red meat, poultry and rendering facilities. This average was constructed by multiplying the compliance cost for each model facility by its production amount, summing across a given product type (meat or poultry), and dividing by total production in that product type. This average was then multiplied by the number of facilities owned by a company to estimate the total costs for a given company. The costs for the proposed option do not move any companies from unlikely or indeterminate distress to likely distress.

EPA notes that in its recent proposed rules concerning concentrated animal feeding operations (CAFOs), EPA analyzed the potential impacts from costs passed on from the CAFO to the processor (66 FR 3092–30923). Many of these processors are the same companies that are considered in this proposal and EPA estimated that from $34 million to $306 million could be passed from the CAFO to the processor as a result of the CAFO proposal, but EPA was unable to apportion these costs among specific companies. EPA intends to fully account for the potential costs of the final CAFO rule when the MPP guidelines are promulgated. EPA solicits comment on the most accurate method to include these potential costs in the MPP economic analysis.

J. Community Impacts

The communities where the meat products facilities are located may be affected by the proposed regulation if facilities cut back operations, local employment and income may fall, sending ripple effects throughout the local community. Facility-level changes in employment could be used to calculate total employment changes. However, the model facilities used by EPA are not tied to any specific location and thus EPA does not have enough information to estimate community impacts with any level of confidence. EPA plans to conduct an analysis of community-level impacts as part of its post-proposal activities and present these results in a subsequent NODA.

K. Market and Foreign Trade Impacts

Foreign trade impacts are difficult to predict, since agricultural exports are determined by economic conditions in foreign markets and changes in the international exchange rate for the U.S. dollar. However, EPA predicts small projected changes in overall supply and demand for these products and a slight increase in market prices. Thus, foreign trade impacts as a result of the proposed regulations will be minor. Using the market model for meat and poultry products, EPA estimates that the domestic supply and demand for beef, pork, chicken, and turkey all decrease by very slight amounts (all less than 0.1 percent). The decrease in domestic supply ranges from 0.02 percent to 0.05 percent and the decrease in domestic demand ranges from 0.02 percent to 0.04 percent.

Despite its position as one of the largest agricultural producers in the world, historically the U.S. has not been a major player in world markets for red meat (beef and pork) or poultry products. In fact, until recently, the U.S. was a net importer of these products. The presence of a large domestic market for meat and poultry products has limited U.S. reliance on developing export markets for its products. As the U.S. has taken steps to expand export markets for red meat and poultry products, one major obstacle has been that it remains a relatively high cost producer of these products compared to other net exporters, such as New Zealand, Australia, and Latin American countries, as well as other more established and government-subsidized exporting countries, including Canada and the countries in the European Union. Increasingly, however, continued efficiency gains and low-cost feed are making the U.S. more competitive in world markets for these products, particularly for red meat. While today's proposed regulations may raise production costs and potentially reduce production quantities that would otherwise be available for export, EPA believes that any quantity and price changes resulting from the proposed requirements will not significantly alter the competitiveness of U.S. export markets for red meat.

In contrast, U.S. poultry products now account for a controlling share of world trade and exports account for a sizable and growing share of annual U.S. production. Given the established presence of the U.S. in world poultry markets and the relative strength in export demand for these products, EPA does not expect that the predicted quantity and price changes resulting from today's proposed regulations will have a significant impact on the competitiveness of U.S. poultry exports.

As part of its market analysis, EPA evaluated the potential for changes in traded volumes, such as increases in imports and decreases in exports, and concluded that volume trade will not be significantly impacts by today's proposed regulations. EPA estimates that imports of beef will increase by 0.01 percent or less compared to baseline (pre-regulation) levels. In no other sector is there a measurable change in imports. EPA estimates that exports decline by 0.14 percent in the chicken sector, 0.12 percent in the pork sector, 0.09 in the beef sector, and 0.05 percent in the turkey sector. None of these decreases in exports are considered to be significant.

L. Cost-Reasonableness and Cost-Effectiveness Analysis

EPA compared the compliance costs for the proposal against the following three different metrics: Removal of all pollutants in pounds, removal of only toxic pollutants in toxic pound-equivalents, and removal of only nutrients in pounds. Although in recently promulgated effluent guidelines, EPA has relied primarily on the toxic pollutant cost-effectiveness measure for evaluating BAT, that measure is less appropriate for comparing the relative cost-effectiveness of options to control pollutants from the meat and poultry products industry because it discharges relatively more conventional pollutants and nutrients than toxic pollutants. Furthermore, the BCT cost test evaluates the cost-reasonableness of the removal of conventional pollutants (*see* Section VIII.G) a description of the methodology, data, and results of these analyses in more detail is contained in the EA.

a. BPT Cost-reasonableness

Tables VIII.L–1 and VIII.L–2 present the results of the BPT cost-reasonableness analysis for direct dischargers in subcategories A–J and K&L, respectively. These results are presented separately because while the cost-reasonableness test is useful for evaluating the options in subcategories A–J, it is also a statutory criteria for evaluating the BPT options under consideration for subcategories K and L. EPA has historically considered cost/reasonableness ratios as high as $37/lb to be reasonable for BPT. Results are presented using both the retrofit and upper-bound costs.

TABLE VIII.L–1.—COST-REASONABLENESS ESTIMATES, SUBCATEGORIES A–J

Option	Removals (M lbs)	Retrofit costs		Upper-bound costs	
		Pre-tax total annualized costs ($1999 M)	Ave. cost/ lb. removal ($/lb.)	Pre-tax total annualized costs ($1999 M)	Ave. cost/ lb. removal ($/lb.)
Subcategory A–D					
2	12.3	9.9	0.81	9.9	0.81
3	38.7	42.2	1.09	59.5	1.54
4	41.0	73.5	1.79	118	2.88
Subcategory F–I					
2	0.25	0.4	1.59	0.4	1.59
3	2.01	0.5	0.27	0.7	0.34
4	2.02	3.5	1.74	7.0	3.47
Subcategory J					
2	18.3	0.6	0.03	0.6	0.03
3	18.3	4.3	0.23	5.8	0.32
4	18.1	5.0	0.27	6.3	0.35

TABLE VIII.L–2.—COST-REASONABLENESS ESTIMATES, SUBCATEGORIES K AND L

Option	Removals (M lbs)	Retrofit costs		Upper-bound costs	
		Pre-tax total annualized costs ($1999 M)	Ave. cost/ lb. removal ($/lb.)	Pre-tax total annualized costs ($1999 M)	Ave. cost/ lb. removal ($/lb.)
Subcategory K					
2	1.63	4.8	2.95	4.8	2.95
3	7.32	34.5	4.71	48.4	6.61
4	8.1	44.2	5.46	61.3	7.56
5	8.0	66.1	8.23	66.1	8.23
Subcategory L					
2	.09	0.3	3.28	0.3	3.28
3	0.31	2.2	7.11	2.9	9.60
4	0.32	3.0	9.54	4.3	13.59
5	0.32	3.9	11.97	3.9	11.97

For subcategories A–J, no option has a cost-reasonableness greater than $ 3.47/lb using upper-bound costs, or greater than $ 1.79 using retrofit costs. Subcategories K and L show similar magnitudes. The least cost-reasonable option for subcategory K is the most stringent option, option 5, with a cost-reasonableness of $ 8.23. The cost-reasonableness for all of the other options for subcategory K are less than $ 8.00/lb. The cost-reasonableness of the options for subcategory L are slightly higher, the least cost-reasonable is option 4 with upper-bound costs, at $ 14/lb. All of these figures are well within the cost-reasonableness of previously promulgated BPT standards.

b. Toxic Cost-Effectiveness

The results of the toxic cost-effectiveness analysis are expressed in terms of the costs (in 1981 dollars) per pound-equivalent removed, where pounds-equivalent removed for a particular pollutant is determined by multiplying the number of pounds of a pollutant removed by each option by a toxic weighting factor. The toxic weighting factors account for the differences in toxicity among pollutants and are derived using ambient water quality criteria. Cost effectiveness results are presented in 1981 dollars as a reporting convention. Cost-effectiveness is calculated as the ratio of pre-tax annualized costs of an option to the annual pounds-equivalent (lb-eq) removed by that option, and can be expressed as the average or incremental cost-effectiveness for an option.

Average cost-effectiveness can be thought of as the ''increment'' between no regulation and the selected option for any given rule. Incremental cost-effectiveness measures the relative cost-effectiveness for two options and is the appropriate measure for comparing one regulatory option to another regulatory option for the same subcategory. Toxic cost-effectiveness results by subcategory and option are presented for direct dischargers in Table VIII.L–3 and indirect dischargers in Table VIII.L–4. The options are listed in order of increasing removals. Toxic cost-effectiveness is presented using both retrofit and upper-bound costs.

TABLE VIII.L–3.—TOXIC COST-EFFECTIVENESS, DIRECT DISCHARGERS

Option	Total pounds removed	Retrofit costs			Upper bound costs		
		Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness	Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness ($1981/pounds equivalent)
Subcategory A Through D							
BAT 2	93,586	NA	NA	NA	$9.93	$62	$62
BAT 3	93,687	$42.25	$263	NA	$59.52	$371	$286,414
BAT 4	94,195	$73.53	$455	$35,930.0	$117.98	$731	$67,154
Subcategory E Through I							
BAT 2	2,609	NA	NA	NA	$0.40	$90	$90
BAT 3	2,618	$0.54	$120	NA	$0.69	$154	$18,512
BAT 4	2,615	$3.53	$787	($597,188.0)	$7.01	$1,564	($1,216,372)
Subcategory J							
BAT 2	1,550	NA	NA	NA	$0.55	$208	$208
BAT 3	1,621	$4.28	$1,540	NA	$5.80	$2,089	$43,028
BAT 4	1,553	$4.98	$1,871	(5,991.0)	$6.31	$2,370	($4,333)
Subcategory K							
BAT 2	63,192	NA	NA	NA	$4.82	$45	$45
BAT 3	64,094	$34.46	$314	NA	$48.37	$440	$28,181
BAT 4	64,029	$44.21	$403	($87,773.00)	$61.25	$558	($115,860)
BAT 4	65,169	$66.09	$592	NA	$66.09	$592	$2,479
Subcategory L							
BAT 2	373	NA	NA	NA	$0.30	$472	$472
BAT 3	383	$2.18	$3,329	NA	$2.95	$4,494	$160,314
BAT 4	371	$3.03	$4,769	($43,685.00)	$4.32	$6,796	($70,689)
BAT 5	398	$3.85	$5,645	NA	$3.85	$5,645	($10,190)

TABLE VIII.L–4.—TOXIC COST-EFFECTIVENESS, INDIRECT DISCHARGERS

Option	Total pounds removed	Retrofit costs			Upper bound costs		
		Pretax annualized cost (Millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness ($1981/pounds equivalent)	Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness ($1981/pounds equivalent)
Subcategory A through D							
PSES1	240,421	NA	NA	NA	$7.05	$17	$17
PSES2	310,768	NA	NA	NA	$151.49	$284	$1,198
PSES3	309,081	$86.42	$163	NA	$96.25	$182	$19,107
PSES4	309,541	$105.86	$200	$24,671	$120.64	$227	$30,955
Subcategory E through I							
PSES1	76,890	NA	NA	NA	$18.79	$143	$143
PSES2	78,831	NA	NA	NA	$102.09	$756	$25,036
PSES3	78,855	$83.25	$616	NA	$83.68	$619	($440,522)
PSES4	78,813	$109.82	$813	($368,189)	$110.20	$816	($367,437)
Subcategory J							
PSES1	3,918	NA	NA	NA	$1.33	$198	$198
PSES2	4,983	NA	NA	NA	$23.25	$2,723	$12,011
PSES3	5,112	$23.09	$2,635	NA	$27.91	$3,185	$21,075
PSES4	4,951	$24.78	$2,920	($6,157)	$29.22	$3,443	($4,757)
Subcategory K							
PSES1	377,651	NA	NA	NA	$10.84	$17	$17
PSES2	382,550	NA	NA	NA	$188.95	$288	$21,212
PSES3	382,735	$126.00	$192	NA	$133.01	$203	($176,292)

TABLE VIII.L–4.—TOXIC COST-EFFECTIVENESS, INDIRECT DISCHARGERS—Continued

Option	Total pounds removed	Retrofit costs			Upper bound costs		
		Pretax annualized cost (Millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness ($1981/pounds equivalent)	Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1981/pounds equivalent)	Incremental cost effective-ness ($1981/pounds equivalent)
PSES4	381,751	$131.39	$201	($3,196)	$136.54	$209	($2,093)
Subcategory L							
PSES1	49,950	NA	NA	NA	$15.26	$178	$178
PSES2	51,257	NA	NA	NA	$105.33	$1,199	$40,224
PSES3	51,367	$74.25	$843	NA	$74.56	$847	($162,814)
PSES4	51,237	$93.89	$1,069	($88,323)	$94.11	$1,072	($87,885)

The average toxic cost-effectiveness values for the selected options generally range from $120/lb-eq to $400/lb-eq. The average toxic cost-effectiveness values for subcategory L are an exception, and are estimated at $3,329/lb-eq or $4,494/lb-eq. For all subcategories except J, the incremental toxic cost-effectiveness is extremely high by historic standards (see Appendix B of the EA for a comparison) however, control of toxic pollutants is not the main goal of the proposal. Rather, EPA focused primarily on cost-reasonableness (for total pounds) and nutrient cost-effectiveness in selecting among options.

c. Nutrient Cost-Effectiveness

EPA also has calculated the cost-effectiveness of the removal of nutrients for the options considered in today's proposal. As a basis of comparison, EPA has estimated that the average cost-effectiveness of nutrient removal by POTWs with biological nutrient removal is $4/lb for nitrogen and $10/lb for phosphorus.

Tables VIII.L–5 and VIII.L–6 present the results of the nutrient cost-effectiveness analysis for direct and indirect dischargers, respectively. The options are listed in order of increasing removals. Toxic cost-effectiveness is presented using both retrofit and upper-bound costs.

TABLE VIII.L–5.—NUTRIENT COST-EFFECTIVENESS, DIRECT DISCHARGERS

Option	Total pounds removed	Retrofit costs			Upper bound costs		
		Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1999/pounds eqivalent)	Incremental cost effective-ness ($1999/pounds equivalent)	Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1999/pounds equivalent)	Incremental cost effective-ness ($1999/pounds equivalent)
Subcategory A Through D							
BAT 2	1,972,012	NA	NA	NA	$9.93	$5.0	$5.0
BAT 3	42,818,320	$42.25	$1.0	NA	$59.52	$1.4	$1.2
BAT 4	44,916,551	$73.53	$1.6	$14.9	$117.98	$2.6	$27.9
Subcategory E through I							
BAT 2	35,700	NA	NA	NA	$0.40	$11.3	$11.3
BAT 3	2,115,639	$0.54	$0.3	NA	$0.69	$0.3	$0.1
BAT 4	2,120,199	$3.53	$1.7	$656.1	$7.01	$3.3	$1,385.8
Subcategory J							
BAT 2	86,772	NA	NA	NA	$0.55	$6.4	$6.4
BAT 3	482,224	$4.28	$8.9	NA	$5.80	$12.0	$13.3
BAT 4	531,196	$4.98	$9.4	$14.3	$6.31	$11.9	$10.3
Subcategory K							
BAT 2	809,883	NA	NA	NA	$4.82	$6.0	$6.0
BAT 3	8,371,827	$34.46	$4.1	NA	$48.37	$5.8	$5.8
BAT 4	8,870,390	$44.21	$5.0	$19.6	$61.25	$6.9	$25.8
BAT 5	8,856,078	$66.09	$7.5	NA	$66.09	$7.5	($338.4)
Subcategory L							
BAT 2	0	NA	NA	NA	$0.30	NA	NA
BAT 3	320,160	$2.18	$6.8	NA	$2.95	$9.2	$8.3
BAT 4	318,194	$3.03	$9.5	($432.9)	$4.32	$13.6	($700.6)
BAT 5	334,187	$3.85	$11.5	NA	$3.85	$11.5	$29.5

TABLE VIII.L–6.—NUTRIENT COST-EFFECTIVENESS, INDIRECT DISCHARGERS

Option	Total pounds removed	Retrofit costs			Upper bound costs		
		Pretax annualized cost (millions of $1999)	Average cost effectiveness ($1999/pounds equivalent)	Incremental cost effective-ness ($1999/pounds equivalent)	Pretax annualized cost (millions of $1999)	Average cost effectivess ($1999/pounds equivalent)	Incremental cost effective-ness ($1999/pounds equivalent)
Subcategory A Through D							
PSES1	907,327	NA	NA	NA	$7.05	$7.77	$7.77
PSES2	1,573,317	NA	NA	NA	$151.49	$96.29	$216.88
PSES3	33,837,795	$86.42	$2.55	NA	$96.25	$2.84	($1.71)
PSES4	35,215,559	$105.86	$3.01	$14.11	$120.64	$3.43	$17.70
Subcategory E Through I							
PSES1	1,997,640	NA	NA	NA	$18.79	$9.41	$9.41
PSES2	1,510,007	NA	NA	NA	$102.09	$67.61	($170.82)
PSES3	4,616,635	$83.25	$18.03	NA	$83.68	$18.13	($5.93)
PSES4	4,603,357	$109.82	$23.86	($2,001.07)	$110.20	$23.94	($1,996.98)
Subcategory J							
PSES1	8,233,864	NA	NA	NA	$1.33	$0.16	$0.16
PSES2	146,708	NA	NA	NA	$23.25	$158.51	($2.71)
PSES3	10,194,886	$23.09	$2.26	NA	$27.91	$2.74	$0.46
PSES4	10,379,498	$24.78	$2.39	$9.18	$29.22	$2.82	$7.09
Subcategory K							
PSES1	5,468,191	NA	NA	NA	$10.84	$1.98	$1.98
PSES2	2,827,350	NA	NA	NA	$188.95	$66.83	($67.45)
PSES3	18,404,976	$126.00	$6.85	NA	$133.01	$7.23	($3.59)
PSES4	19,217,341	$131.39	$6.84	$6.63	$136.54	$7.11	$4.34
Subcategory L							
PSES1	2,715,456	NA	NA	NA	$15.26	$5.62	$5.62
PSES2	1,893,734	NA	NA	NA	$105.33	$55.62	($109.61)
PSES3	5,911,953	$74.25	$12.56	NA	$74.56	$12.61	($7.66)
PSES4	5,936,000	$93.89	$15.82	$769.90	$94.11	$15.85	$792.95

The nutrient cost-effectiveness for the selected options varies by subcategory from $0.10/lb to $8.30/lb. These values are all within the approximate benchmarks determined by EPA for phosphorus. In fact, for Subcategories A–I, Option 3 is more cost-effective (in terms of nutrients) than Option 2 and is well within the benchmark for nitrogen as well. For subcategories J, K, and L, the nutrient cost-effectiveness numbers for the proposed options range from $5.80 to $9.20 per pound. These exceed the benchmark for nitrogen. When broken out by nitrogen and phosphorus, Option 2 meets the individual benchmarks, but option 3 does not for subcategories K and L. These options thus may not be cost-effective for nutrient removal.

M. Small Business Analysis

EPA analyzed the economic impacts on small businesses in order to comply with its obligations under the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act. The RFA provides that the default definitions for small businesses are based on size standards determined by the Small Business Administration (SBA). The standards are for firms, not facilities, and are based on NAICS codes. The size standard for all of the NAICS codes in the meat and poultry products industry is 500 employees.

The first step in the analysis was determining how many facilities in the industry are owned by small businesses and how many are owned by large businesses. EPA took two separate approaches to make this determination and compared the estimates to information from other sources on the number of facilities owned by large businesses to determine which was more accurate. The first approach relied on data from the SBA website on the number of firms and facilities of a certain size; this data was provided under a special contract with the Census Bureau and matches the employment classes used in the Census of Manufacturers. The second approach relied on data from the screener survey.

Using the SBA/Census data, EPA first checked the employment class for each model facility. If the model facility was in an employment class exceeding 500, then all facilities controlled by the same firm were assumed to be large business owned. If not, then EPA assigned to that model facility the ratio of facilities to establishments for the corresponding employment class in the SBA/Census special study. Multiplying that ratio by the number of facilities represented by the model facility resulted in our estimate of small business owned facilities.

For example, suppose the model facility for R12, medium was in the 100–249 employee class, and the SBA/Census special study tells us that for NAICS 311611, there are 200 firms and 210 facilities with 100–500 employees. In that case, we assumed 95% of R12, medium facilities were stand alone small businesses, and 5% of R12,

medium facilities were large business owned.

As an alternative to the estimates from the SBA/Census data, EPA also examined responses from the screener survey, which asks for facility and company employment for each facility. EPA then compared the resulting estimates of the numbers of businesses from each alternative approach to information from the various sources in the industry profile on the number of facilities owned by large businesses. For all the subcategories except rendering, the SBA/Census data appeared to provide more accurate comparative estimates and was used to generate the numbers of small and large businesses. EPA used the screener survey to generate this data for rendering facilities. EPA determined that none of the certainty facilities are owned by small businesses.

EPA estimates the 73 facilities owned by small businesses will be affected by this regulation: 69 nonsmall facilities in subcategories A–K with new BPT/BCT/BAT requirements and 4 small facilities in Subcategory L subject to new BPT requirements. Average cost/sales ratios for facilities owned by small businesses are presented in Table VIII.M–1 as well as the range of cost/sales ratios calculated for those facilities. Average cost/net income ratios for facilities owned by small businesses are presented in Table VIII.M–2 with the range of cost/net income ratios calculated for those facilities. The ranges are generated by calculating the ratios for each of the model facilities that make up each subcategory. The average ratio is thus a weighted average of the ratios for the model facilities. Therefore, this average ratio may vary from the ratio for the subcategory as a whole.

TABLE VIII.M–1.—COST/SALES RATIOS FOR SMALL BUSINESS-OWNED FACILITIES, SELECTED OPTIONS

Subcategory	Number of small business-owned facilities	Cost/net income (%)		
		Average	Low	High
A–D	5	0.02	0.25	0.25
F–I	10	0.07	0.01	0.27
J	12	0.17	0.17	0.17
K	28	0.58	0.37	1.00
L (nonsmall)	12	0.55	0.27	0.59
L (small)	4	0.20	0.20	0.20

TABLE VIII.M–2.—COST/NET INCOME RATIOS FOR SMALL BUSINESS-OWNED FACILITIES, SELECTED OPTIONS

Subcategory	Number of small business-owned facilities	Cost/net income (%)		
		Average	Low	High
A–D	5	0.25	0.25	0.25
F–I	10	0.55	0.09	2.03
J	12	0.68	0.68	0.68
K	28	6.82	5.03	8.94
L (nonsmall)	12	4.87	2.03	5.31
L (small)	4	2.44	2.44	2.44

IX. Water Quality Analysis and Environmental Benefits

A. Qualitative Description of Water Quality Benefits

EPA evaluated the environmental benefits of controlling the discharges of conventional pollutants from meat and poultry production industry (MPP) facilities to surface waters in national analyses of direct and indirect discharges. EPA used the National Water Pollution Control Assessment Model (NWPCAM version 1.1) to model the instream Dissolved Oxygen (DO) concentration, as influenced by pollutant reductions of BOD_5, Total Kjeldahl Nitrogen (TKN), Total Suspended Solids (TSS) and Fecal Coliform (FC). Based upon each reach mile concentration of DO, BOD_5, FC and TSS, EPA estimated the change in each reaches' use category. The use categories ladder is as follows, from poorest to best: No use, boatable, fishable, and swimmable; where swimmable waters are most desirable.

EPA modeled a sample set of 97 facilities. EPA estimates that the proposed rule will improve overall use of 17 to 28 reach miles for the sample set. Scaling these results to represent the nation level of 246 facilities, EPA estimates the national improvement in overall use to be 29 to 49 reach miles. The national monetized benefits for this overall use improvement range from $15.5 million to $16.1 million.

B. Facilities Modeled

EPA estimates that 246 red meat, poultry, and rendering facilities are covered under this proposed rule. EPA mailed out 350 detailed surveys to generate both environmental and economic data. EPA received 241 detailed surveys in time for data analysis of this proposed rule making (*see* Section V.B). Of the 241 detailed surveys, EPA was able to model the environmental impacts of 97 facilities (36 direct dischargers and 61 indirect dischargers). EPA did not evaluate: (1) 79 facilities which report storing water in on-site lagoons or land applying their wastewater; or (2) 65 facilities for which EPA had insufficient data to conduct the water quality analysis.

C. Pollutants of Concern

EPA identified 30 pollutants of concern for the meat processing segment of the industry and 27 pollutants of concern for the poultry processing segment of the industry (*see* Section V.C). This list includes Ammonia as Nitrogen, Carbonaceous BOD_5, Chemical Oxygen Demand (COD), Nitrate +Nitrite (as Nitrogen), Hexane Extractable Method (HEM), Oil and Grease, Total Recoverable Oil and Grease, pH, Temperature, Total Nitrogen and Total Phosphorous (as PO_4).

Discharges of these pollutants of concern into freshwater and estuarine

ecosystems may alter aquatic habitats and adversely affect aquatic biota. For example, habitat degradation can result from increased suspended particulate matter that reduces light penetration, and thus primary productivity, or from accumulation of suspended particles that alter benthic spawning grounds and feeding habitats. Nutrients, including phosphorus and nitrogen are the primary causes of surface water eutrophication, which can reduce dissolved oxygen content of waterbodies to levels insufficient to support fish and invertebrates. Eutrophication may also increase the incidence of harmful algal blooms which release toxins as they die and can severely affect wildlife as well as humans.

BOD_5 and COD are important measures of the organic content of an effluent. When effluents with high BOD_5 or COD are discharged to surface waters, the process of microbial degradation of organic compounds can, under certain conditions, reduce dissolved oxygen levels in receiving water bodies below the threshold necessary to support aquatic life. Additionally, meat and poultry processing raw wastewaters contain significant amounts of organic nitrogen which rapidly breaks down into ammonia which, if left untreated, are a direct toxicant to aquatic communities. Oil and grease are known to produce toxic effects on aquatic organisms (*i.e.,* fish, crustacea, larvae and eggs, gastropods, bivalves, invertebrates, and flora). Pathogens are known to impact a variety of water uses including recreation, drinking water sources, and aquatic life and fisheries (Docket No. W–01–06, Record No. 10024).

D. Benefits Modeling Methodology

EPA chose to use the National Water Pollution Control Assessment Model (NWPCAM) version 1.1 to estimate environmental impacts to surface water quality resulting from implementation of various scenarios for regulating MPP facilities. Specifically, EPA developed NWPCAM v1.1 to model instream Dissolved Oxygen (DO) concentration, as influenced by pollutant reductions of BOD_5, Total Kjeldahl Nitrogen (TKN), Total Suspended Solids (TSS) and Fecal Coliform (FC). Based upon each reach mile concentration of DO, BOD_5, FC and TSS, EPA estimates the change in each reaches' use category. The use categories ladder is as follows, from poorest to best: 0 = no use; 1 = boatable; 2 = fishable; and 3 = swimmable (where swimmable waters are most desirable).

The NWPCAM is a national-scale water quality model that characterizes water quality conditions for the Nation's network of river and streams. As of present, the NWPCAM v1.1 only models DO, BOD_5, Fecal Coliform, TKN and TSS. EPA is presently working to modify the model to include the following: (1) Modeling of nutrients for an eutrophication analysis of ponds and lakes; and (2) modeling of other pollutants for rivers and streams. This model update should be completed in time for the final rule.

Since the meat and poultry processing industry waste streams are mostly non-toxic organic pollutants, EPA is satisfied that NWPCAM v1.1 models the majority of pollutant pounds generated by the 97 MPP facilities included in this rule making. However, for this reason, EPA acknowledges that the environmental impacts and benefits are probably underestimated.

In addition, EPA did not evaluate the impact on receiving waters from conventional pollutants (BOD_5, TSS, Oil and Grease and Fecal Coliform) and other pollutants (metals, nutrients) which pass through the POTW (*see* Section XI.B). EPA is, however, soliciting comment on whether pretreatment standards are necessary for this industry and how EPA should model these potential benefits from controls on MPP indirect dischargers.

E. Modeled Technology Option Scenarios

EPA estimated the benefits from the improvements in water quality expected for 8 different scenarios of the various regulatory options.

TABLE IX.E–1.—BENEFITS SCENARIOS MODELED

Scenario	Regulatory options [1]
1	BAT2
2	BAT3
3	BAT4
4	BAT2 + PSES1
5	BAT3 + PSES1
6	BAT4 + PSES1
7	BAT3 (meat, poultry), BAT2 (rendering)
8	BAT3 (meat, poultry), BAT2 (rendering) + PSES1

Note 1: BAT options apply to within scope direct dischargers and PSES options apply to within scope indirect dischargers (*see* Section III).

The regulatory options evaluated for direct dischargers were:

BAT2: Dissolved Air Flotation (DAF) (advanced oil/water separation), Lagoon, and Disinfection (Oil and Grease, BOD_5, TSS, Pathogen removal) + Nitrification (Ammonia (NH3) removal)

BAT3: BAT2 + Denitrification (Nitrogen removal)

BAT4: BAT3 + (Phosphorus removal)

The regulatory Options evaluated for indirect dischargers were:

PSES1: DAF, Equalization (Oil and Grease, TSS, removal)

F. Documented Impacts and Permit Violations

EPA identified 10 articles documenting environmental impacts due to meat and poultry processing facilities. Documented impacts include 4 reaches with nutrient loadings, 2 sites with contaminated well water, 1 site with contaminated ground water, and 1 lake threatened by nutrient loadings. EPA also documented 20 permit violations by meat and poultry processing facilities. The permit levels mostly violated are NH_3–N, PO_4, and TSS.

EPA identified 18 articles which document legal action in criminal cases taken against meat and poultry processing facilities. Documented legal action includes: (1) Conspiracy of 5 facilities to violate the CWA; (2) one case of illegal dumping of waste; and (3) five cases of falsifying records, diluting waste samples and or destroying records. These legal actions resulting in 3 possible cases of incarceration and fines ranging from $0.25 million to $12.6 million. All of these articles and permit violations are documented in the record (Docket No. W–01–06, Record No. 10033).

G. Modeled Water Quality Impacts

The environmental analysis for 97 meat and poultry processing facilities is presented in Table IX.G–1. EPA estimates that the proposed rule would decrease end-of-pipe pollutant loadings 10 percent for all subcategories. The baseline load of 49.9 million lbs/yr (BOD_5, TSS, Nitrogen, Phosphorus and TKN) would be reduced to 45.1 million lbs/yr. The recommended treatment option would result in the over-all use improvement of 21 river miles at the sample set, and approximately 36 miles at the national level.

TABLE IX.G–1.—MODELED ENVIRONMENTAL BENEFITS (97 FACILITIES)

Scenario	Regulatory options	Pollutant [1] Load (million lbs/yr)	Pollutant Reduction (percent)	Overall use improvement [2] (reach miles)	
				Sample	National
Baseline		49.9			
1	BAT2	47.5	5	17	29
2	BAT3	45.0	10	21	36
3	BAT4	44.8	10	21	36
4	BAT2 + PSES1	36.2	27	24	41
5	BAT3 + PSES1	33.7	32	28	48
6	BAT4 + PSES1	33.5	33	21	36
7	BAT3 (meat, poultry), BAT2 (Rendering)	45.1	10	21	36
8	BAT3 (meat, poultry), BAT2 (Rendering) + PSES1	33.7	32	28	48

Note 1: Baseline = 49.9 Million lbs/yr. Pound totals include BOD, TSS, Nitrogen, Phosphorus and TKN from 97 facilities. Some overlap between categories may be occurring

Note 2: Sample set represents 97 facilities. National set represents 246 facilities. Of the 246 facilities represented, 79 facilities are zero dischargers, and therefore do not contribute to these modeled water quality impacts/improvements.

H. Monetized Water Quality Benefits

Economic benefits associated with the meat and poultry products scenarios are based on incremental changes in water quality use-support (i.e., boatable, fishable, swimmable) and the population benefitting from the changes. Benefits are calculated state-by-state at the State (local) scale as well as at the national level. For each State, benefits at the local-scale represent the value that the State population is willing to pay for improvements to waters within the State or adjoining the State. For each State, benefits at the national-scale represent the value that the State population is willing to pay for improvements to waters in all other states in the continental United States. EPA solicits comment on additional methods for estimating and monetizing benefits.

Table IX.H–1 summarizes the resulting estimates of economic benefits for each of the six regulatory scenarios analyzed. Based on the subset of facilities included in the NWPCAM analysis, the total national willingness-to-pay (WTP) benefits at the local-scale for all water quality use-supports ranged from approximately $15.5 million for BAT2 to $16.1 million for BAT4 + PSES1. EPA estimates that the annual benefits of the proposed regulatory action (i.e., Scenario 7) is $15.6 million per year. Since these benefits are for a subset of the facilities regulated by the proposal, they should not be compared to the total costs of the rule. EPA estimates that the costs for Scenario 7 for the facilities included in the benefits analysis are $33.7 million. If the ratio of costs to benefits for these facilities is the same as the ratio of costs to benefits for all facilities, the total benefits of the rule would be $37.0 million.

TABLE IX.H–1.—MODELED ENVIRONMENTAL BENEFITS (97 FACILITIES)

Scenario	Regulatory options	Monetized benefits ($1999 million)
1	BAT2	15.5
2	BAT3	15.6
3	BAT4	15.6
4	BAT2 + PSES1	15.9
5	BAT3 + PSES1	16.0
6	BAT4 + PSES1	16.1
7	BAT3 (meat, poultry), BAT2 (Rendering).	15.6
8	BAT3 (meat, poultry), BAT2 (Rendering) + PSES1.	16.0

X. Non-Water Quality Environmental Impacts

Sections 304(b) and 306(b) of the Clean Water Act require EPA to consider non-water quality environmental impacts (including energy requirements) associated with effluent limitations guidelines and standards. To comply with these requirements, EPA considered the potential impact of the proposed MPP rule on energy consumption, air emissions, and solid waste generation. A discussion of the proposed technology options is given in Section VII of this preamble. Considering energy use and environmental impacts across all media, the Agency has determined that the impacts identified in this section are justified by the benefits associated with compliance with the proposed limitations and standards. Section X.A discusses the energy requirements for implementing wastewater treatment technologies at MPP facilities. Section X.B presents the impact of the proposed technologies on air emissions, and section X.C discusses the impact on wastewater treatment sludge generation.

A. Energy Requirements

EPA estimates that compliance with this rule will result in a small net decrease in energy consumption at non-small MPP facilities that are direct dischargers and no change in energy consumption at all MPP facilities that are indirect dischargers (as EPA is proposing no PSES and PSNS for all MPP subcategories) (*see* Section III.A.1 for EPA's definition of small and non-small facilities). EPA did, however, estimate the energy consumption at non-small MPP facilities that are indirect dischargers and noted a small net increase in energy consumption. Table X.A–1 and X.A–2 present estimates of energy usage by technology option for both non-small direct and indirect dischargers, respectively. For the selected proposal technology options, EPA estimates that there will be a reduction in total annual energy use across all non-small direct dischargers (a net reduction of 144 million KWH/yr). This is a relatively small net reduction in comparison with the total annual amount of energy purchased by non-small direct facilities (2,929 million KWH/yr). There are no incremental energy use impacts for direct dischargers that are small poultry slaughterers (subpart K) or small poultry further processors (subpart L) as all of these small facilities are currently implementing the proposed limitations and standards (Docket No. W–01–06, Record No. 00168).

TABLE X.A–1.—INCREMENTAL ENERGY USE FOR EXISTING NON-SMALL MPP FACILITIES, DIRECT DISCHARGERS

40 CFR part 432 subcategory groupings [1]	Total Energy purchased per non-small MPP facility (million KWH/fac.-yr)	Incremental MPP WWTP energy use per non-small MPP facility in units of million KWH/fac.-yr and total energy usage percent Increase per non-small MPP facility [% increase]			
		BAT2	BAT3	BAT4	BAT5
A, B, C, D	11.42	0.0221 [0.19%]	−0.9324 [−8.89%]	−1.0759 [−10.40%]	NA
F, G, H, I	13.46	0.0017 [0.01%]	−0.0239 [−0.18%]	−0.0354 [−0.26%]	NA
J	5.47	0 [0.00%]	−0.2415 [−4.62%]	−0.261 [−5.01%]	NA
K	13.53	0.0031 [0.02%]	−0.627 [−4.86%]	−0.6076 [−4.70%]	−0.6033 [−4.67%]
L	13.46	0.0021 [0.02%]	−0.1088 [−0.81%]	−0.1094 [−0.82%]	−0.1519 [−1.14%]

Note 1: Small Processors (Subpart E) are not covered under the proposal (*see* Section III.A.1) and do not have any net incremental NWQIs (including energy usage).

TABLE X.A–2.—INCREMENTAL ENERGY USE FOR EXISTING NON-SMALL MPP FACILITIES, INDIRECT DISCHARGERS

40 CFR part 432 subcategory groupings[1]	Total energy purchased per non-small MPP facility (million KWH/fac.-yr)	Incremental MPP WWTP energy use per non-small MPP facility in units of million KWH/fac.-yr and total energy usage percent increase per non-small MPP facility [% Increase]			
		PSES1	PSES2	PSES3	PSES4
A, B, C, D	11.42	0.2644 [2.26%]	4.5467 [28.48%]	2.0473 [15.20%]	1.6061 [12.33%]
F, G, H, I	13.46	0.1227 [0.90%]	0.6021 [4.28%]	0.3404 [2.47%]	0.3137 [2.28%]
J	5.47	0.0243 [0.44%]	0.4617 [7.78%]	0.0061 [0.11%]	−0.0547 [−1.01%]
K	13.53	0.1423 [1.04%]	2.6724 [16.49%]	0.9385 [6.49%]	0.8078 [5.63%]
L	13.46	0.0995 [0.73%]	0.6519 [4.62%]	0.3194 [2.32%]	0.2933 [2.13%]

Note 1: Small Processors (Subpart E) are not covered under the proposal (*see* Section III.A.1) and do not have any net incremental NWQIs (including energy usage).

The Direct Option BAT3 results in a net decrease in energy use. This is a result of the nitrification/denitrification process (BAT3) utilizing less oxygen and less mixing than the nitrification process (BAT2). Oxygen transfer and mixing operations require energy to run blowers and mixers, respectively. The electrical energy costs of a fully nitrifying wastewater treatment plant (WWTP) can typically be reduced by approximately 20% by implementation of denitrification with influent BOD as the necessary organic carbon source (Docket No. W–01–06, Record No. 00166).

EPA used facility count, wastewater flow, and treatment-in-place data from the Screener Survey and Detailed Survey to develop the previous energy use estimations. The MPP Development Document provides more detailed information on the development of these energy use estimations.

B. Air Emissions Impacts

The Agency believes that the end-of-pipe technologies included in the technology options for this rule do not generate significant incremental air emissions either directly from the facility or indirectly through increased air emissions impact from the electric power generation facilities providing the additional energy.

Odors are the only significant air pollution problem associated with MPP facility wastewater treatment. Malodorous conditions usually occur in anaerobic waste treatment processes or localized anaerobic environments within aerobic systems. However, it is generally agreed that anaerobic tanks and ponds will not create serious odor problems unless the process water has a high sulfate content. The proposed technology options will not significantly increase odors as the proposed technology options do not create additional amounts of methane.

The anaerobic contact tank or pond odor is unpredictable as evidenced by the few facilities that have odor problems without sulfate waters (Docket No. W–01–06, Record No. 00162). Facilities generally utilized a scum layer on the anaerobic contact tank or pond to minimize odors (Docket No. W–01–06, Record No. 10034). Additionally, covers and collectors of off-gases from tanks or ponds may also control odors. If the off-gas has sufficient methane content it can then be recovered for energy or burned in a flare. Dissolved air flotation systems can also generate localized odors if facilities do not: (1) Properly remove the skimmings or grease-containing solids; or (2) provide sufficient ventilation around the treatment system if it is located indoors. Odors can best be controlled by elimination, at the source, in preference to treatment for odor control.

EPA visited several MPP facilities that EPA considered to be operating the selected proposal technology options. None of these BAT facilities had odor control problems. One MPP WWTP operator noted that his facility, which

operates BAT5 technology (biological nutrient removal with disc filter), has had no odor control problem since the installation of his new WWTP even with private residences located within ¼ mile of the WWTP (Docket No. W–01–06, Record No. 00154).

As previously stated, EPA estimates an annual net energy reduction of 144 million KWH for the selected proposal technology options. EPA is proposing no PSES or PSNS regulatory controls for indirect dischargers. This annual net energy reduction, however, is small compared with the amount of energy used by MPP direct dischargers (2,929 million KWH/yr) and trivial when compared with the total electricity used by the entire United States in 1999 (3,501 billion KWH) (Docket No. W–01–06, Record No. 00139).

C. Solid Waste Generation

The most significant non-water quality environmental impact (NWQI) is the generation of additional solids from MPP WWTP. These additional solids are generally nonhazardous. Some solids are recovered for additional processing (rendering) and are not considered solid wastes or NWQIs. Screening devices of various design and operating principles are used primarily for removal of large-scale solids (*e.g.,* feathers, large animal particles) from the meat and poultry processing facility raw water before the raw water reaches the headworks of the WWTP. These large-scale solids have economic value as inedible rendering raw material.

The organic and inorganic solid material separated from the MPP wastewater, including chemicals added to aid solids separation, is called sludge. Typically, this sludge contains 95 to 98 percent water before dewatering. The raw sludge can be concentrated, digested, dewatered, dried, incinerated, land-filled, or spread in sludge holding ponds. Facilities may use combinations of these sludge management options for different periods of the year. A WWTP operator for a poultry slaughtering facility, which utilizes BAT5 technology, noted that sludges from his facility are used as a soil amendments via spray irrigation for crops raised on the facility's property, while during the off-growing season (July through March) these sludges are kept in a lagoon. The operator pays a fee for land application of the WWTP sludge. EPA noted during site visits to two independent rendering operations that sludges from dissolved air floatation units which use chemical additions to promote solids separation are rendered, however, the chemical bond between the organic matter and the polymers requires that the sludges be processed (rendered) at higher temperatures (260 °F) and longer retention times (Docket No. W–01–06, Record No. 10042). EPA estimates that compliance with this proposed rule will result in a decrease in wastewater treatment sludges at MPP facilities.

For the selected proposal technology options, EPA estimates that there will be a 3.4% reduction in total annual sludge production across all non-small direct dischargers (a net reduction of approximately 16,500 tons/yr). This is a relatively small net reduction in comparison with the current total annual amount of sludge production by non-small direct facilities (approximately 500,000 tons/yr). Tables X.C–1 and X.C–2 present the amount of wastewater treatment sludge expected to be reduced at non-small facilities as a result of implementing each of the technology options. There are no incremental sludge generation impacts for direct dischargers that are small poultry slaughterers (subpart K) or small poultry further processors (subpart L) as all of these small facilities are currently implementing the proposed limitations and standards (Docket No. W–01–06, Record No. 00168).

EPA is proposing no PSES and PSNS for all indirect dischargers in all MPP subcategories. EPA did, however, estimate the sludge generation at non-small MPP facilities that are indirect dischargers and noted a small net increase in sludge generation.

TABLE X.C–1.—INCREMENTAL SLUDGE GENERATION FOR EXISTING NON-SMALL MPP FACILITIES, DIRECT DISCHARGERS

40 CFR part 432 subcategory groupings[1]	Baseline total sludge generated at non-small MPP facilities, direct dischargers (tons/year)	Incremental Sludge Generated—tons/yr and percent increase [% Increase] for non-small MPP facilities, direct dischargers			
		BAT2	BAT3	BAT4	BAT5
A, B, C, D	353,794	0 [0.0%]	−5,976 [−1.7%]	−5,334 [−1.5%]	NA
F, G, H, I	6,564	0 [0.0%]	−45 [−0.7%]	−26 [−0.4%]	NA
J	3,655	0 [0.0%]	−124 [−3.4%]	−124 [−3.4%]	NA
K	129,917	0 [0.0%]	−10,353 [−8.0%]	8,533 [6.6%]	8,533 [6.6%]
L	3,326	0 [0.0%]	−146 −4.4%]	−137 [−4.1%]	−909 [−27.3%]

Note 1: Small Processors (Subpart E) are not covered under the proposal (*see* Section III.A.1) and do not have any net incremental NWQIs (including sludge generation).

TABLE X.C–2.—INCREMENTAL SLUDGE GENERATION FOR EXISTING NON-SMALL MPP FACILITIES, INDIRECT DISCHARGERS

40 CFR part 432 subcategory groupings[1]	Baseline total sludge generated at non-small MPP facilities, indirect dischargers (tons/year)	Incremental sludge generated—tons/yr and percent increase [% Increase] for non-small MPP facilities, indirect dischargers			
		PSES1	PSES2	PSES3	PSES4
A, B, C, D	63,466	0 [0.0%]	227,567 [358.6%]	187,011 [294.7%]	189,695 [298.9%]

TABLE X.C–2.—INCREMENTAL SLUDGE GENERATION FOR EXISTING NON-SMALL MPP FACILITIES, INDIRECT DISCHARGERS—Continued

40 CFR part 432 subcategory groupings[1]	Baseline total sludge generated at non-small MPP facilities, indirect dischargers (tons/year)	Incremental sludge generated—tons/yr and percent increase [% Increase] for non-small MPP facilities, indirect dischargers			
		PSES1	PSES2	PSES3	PSES4
F, G, H, I	2,599	302 [11.6%]	58,071 [2234.6%]	48,598 [1870.1%]	50,046 [1925.8%]
J	9,520	32 [0.3%]	11,259 [118.3%]	9,212 [96.8%]	9,522 [100.0%]
K	38,422	97 [0.3%]	188,012 [489.3%]	162,621 [423.3%]	162,589 [423.2%]
L	2,360	228 [9.6%]	61,213 [2593.6%]	53,794 [2279.2%]	54,233 [2297.8%]

Note 1: Small Processors (Subpart E) are not covered under the proposal (*see* Section III.A.1) and do not have any net incremental NWQIs (including sludge generation).

As shown in Table X.C–1, Direct Option BAT3 results in a net decrease in sludge generation for non-small direct dischargers. This is a result of the nitrification/denitrification (BAT3) metabolism which reduces sludge production as compared with nitrification (BAT2) metabolism for the same solids retention time (Docket No. W–01–06, Record No.00166). Full-scale domestic WWTP have shown a 5 to 15% reduction in waste sludge production after the inclusion of the nitrification/denitrification process (Docket No. W–01–06, Record No. 10035).

EPA also expects that water conservation and pollution prevention technologies may result in a greater sludge reduction. EPA expects these technologies to reduce sludge generation for the following reasons:

- Water conservation technologies reduce the amount of source water used and thus mass of pollutants in the source water which reduces the amount of sludge generated during treatment.
- Pollution prevention practices reduce the mass of pollutants in treatment system influent streams which reduces the amount of WWTP sludge.

EPA used facility count, wastewater flow, and treatment-in-place data from the MPP Screener Survey and Detailed Survey to develop the previous sludge generation estimations. The MPP Development Document provides more detailed information on the development of these sludge generation estimations.

XI. Options Selected for Proposal

A. Introduction

1. Methodology for Proposed Selection of Regulated Pollutants

EPA selects the pollutants for regulation based on the pollutants of concern (POCs) identified for each subcategory.

EPA selected a subset of pollutants for which to establish numerical effluent limitations from the list of POCs for each regulated subcategory. Section VII.C. discusses EPA's methodology for selecting POCs and identifies on a subcategory basis the POCs relevant to this proposal. Generally, a chemical is considered a POC if it was detected in the untreated process wastewater at 5 times the minimum level (ML) in more than 10 percent of samples.

Monitoring for all POCs is not necessary to ensure that Meat and Poultry Products wastewater pollution is adequately controlled, since many of the pollutants originate from similar sources, have similar treatabilities, are removed by similar mechanisms, and are treated to similar levels. Therefore, it may be sufficient to monitor for one pollutant as a surrogate or indicator of several others.

Regulated pollutants are pollutants for which the EPA would establish numerical effluent limitations and standards. EPA selected a POC for regulation in a subcategory if it meets all the following criteria:

—Chemical is not used as a treatment chemical in the selected technology option.
—Chemical is not considered a volatile compound.
—Chemical is effectively treated by the selected treatment technology option.
—Chemical is detected in the untreated wastewater at treatable levels in a significant number of samples, *e.g.,* generally 5 times the minimum level at more than 10 percent of the raw wastewater samples.
—Chemicals whose control through treatment processes would lead to control of a wide range of pollutants with similar properties; these chemicals are generally good indicators of overall wastewater treatment performance.

Based on the methodology described above, EPA proposes to regulate pollutants in each subcategory that will ensure adequate control of a range of pollutants.

2. Selection of Proposed Regulated Pollutants for Existing and New Direct Dischargers

The current regulation requires facilities to maintain the pH between 6.0 and 9.0 at all times. EPA intends to retain this limitation and proposes to codify identical pH limitations for previously unregulated subcategories. The pH shall be monitored at the point of discharge from the wastewater treatment facility to which effluent limitations derived from this part apply.

In addition, EPA is proposing to establish effluent limitations for MPP facilities for the following pollutants of concern: BOD, COD, TSS, oil and grease, fecal coliforms, ammonia, total nitrogen, and total phosphorus. The specific justifications for the pollutants to be regulated for each subcategory are provided below. In general, EPA selected these pollutants because they are representative of the characteristics of meat processing wastewaters generated in the industry, and are key indicators of the performance of treatment processes that serve as the basis for the proposed effluent limitations.

A number of POCs evaluated by EPA are parameters that identify the quantity of material in an effluent that is likely to consume oxygen as it breaks down in surface waters after it has been discharged. These parameters include total organic carbon, BOD, COD and dissolved BOD. Values for these POCs

in meat poultry processing wastes are typically very high due to the wastewaters generated from killing, evisceration, further processing, and rendering processes. EPA is proposing to regulate BOD and COD, which will be used as indicators of the performance of biological treatment systems to remove all oxygen-demanding pollutants.

Total suspended solids (TSS), total dissolved solids (TDS), and total volatile solids are parameters that measure the quantity of solids in a wastewater. Meat processing facilities typically produce wastewaters high in organic solids including blood, carcass, feathers, and feces. These solids cause a high oxygen demand (both chemical and biochemical) and are high in protein and nitrogen content. Because some nutrients bind to solids, and solids often include oxygen-demanding organic material, limiting the loading of solids will prevent degradation of surface waters. EPA proposes to regulate TSS as an indicator of performance of biological treatment systems to remove solids. EPA considered regulation of TDS, however, as organic matter is broken down in a biological system, levels of TDS may increase, which makes regulation of TDS not feasible. EPA is considering setting TDS direct and/or indirect limitations and standards for certain meat and poultry further processors (*e.g.,* ham processors) that use significant amounts of brine or pickling solutions for the final rule. EPA solicits comment on whether such TDS limitations and standards are necessary, what technologies would be appropriate for this industry for TDS removal, and which industry subcategories (if any) should be subject to these potential limitations and standards.

Wastewaters from meat processing facilities have high concentrations of nutrients associated primarily with solids from feces wastes and facility cleaning processes. In addition, those facilities employing advanced biological treatment systems to remove ammonia convert organic nitrogen to nitrate and nitrites. Due to the potential degrading impacts to surface waters associated with the discharge of nutrients (*e.g.,* eutrophication), EPA proposes to regulate total nitrogen and total phosphorus. In regulating total nitrogen and total phosphorus, EPA will ensure that biological treatment systems used by facilities are effectively removing all forms of these nutrients including total kjeldahl nitrogen (TKN), nitrate/nitrite, ammonia as nitrogen, orthophosphate, and dissolved phosphorus. EPA proposes to regulate total nitrogen to ensure that the relationship between organic nitrogen (estimated by the pollutant TKN) and inorganic nitrogen (estimated by nitrate/nitrite) is maintained, thus EPA is defining ''total nitrogen'' to be the sum of nitrate/nitrite and TKN. EPA is also proposing to specifically regulate ammonia as nitrogen because of the significant oxygen demand it exerts, as well as its relatively high toxicity to aquatic life. In conjunction with the proposed regulations for total nitrogen, EPA proposes to approve EPA Method 300.0 at 40 CFR part 432. Alternatively, EPA may amend 40 CFR part 136 to include Method 300.0 for determination of nitrate/nitrite from wastewaters in the meat and poultry products point source category. The analytical methods for nitrite/nitrate that are currently approved at 40 CFR part 136 include many that are based on colorimetric techniques (*i.e.,* adding reagents to a sample that form a colored product when they react with the nitrate/nitrite and measuring the intensity of the colored product). Such methods can be subject to interferences in the difficult matrices associated with this industry where samples may contain blood, animal tissue, and/or other particulates which affect both the color development and ability to pass light through the sample to measure the intensity of the colored product. In contrast, Method 300.0 employs the technique known as ion chromatography to measure 10 inorganic anions, including nitrate and nitrite. Ion chromatography permits the various inorganic anions to be separated from one another, as well as from other materials and contaminants present in the sample. Each anion can be identified on the basis of its characteristic retention time (the time required to pass through the instrumentation). After separation, the anions are measured by a conductivity detector that responds to changes in the effluent from the ion chromatograph that occur when the negatively charged anions (analytes) elute at characteristic retention times, thereby changing the conductivity of the solution. Thus, Method 300.0 offers better specificity for nitrate and nitrite in the presence of interferences compared to the approved colorimetric methods. Method 300.0 is located in the rulemaking record (Docket No. W–01–06, Record No. 10036). EPA requests comment on the use of this method for the meat and poultry point source category and whether the method should be approved at 40 CFR part 432 or at 40 CFR part 136 or both.

Oil and grease (as n-hexane-extractable material) is a parameter that measures oil and grease concentrations in effluents. Oil and grease is contained in many of the meat processing operations. EPA is proposing the control of oil and grease is necessary to ensure that treatment systems are effective in removing oil and grease. Excessive oil and grease concentrations can be associated with high BOD demand in a surface water and present other nuisance problems. In the proposed rule, these limitations and standards are listed as ''O&G (HEM)'' to indicate that the parameter should be measured as hexane extractable material (HEM). In contrast, EPA has retained the previous notation of ''O&G'' for the existing BPT limitations, but has included footnotes that indicate it can be measured as HEM. EPA has used the two different notations because the existing BPT limitations and today's proposed limitations were based upon analytical testing methods that used two different extraction solvents: freon and n-hexane, respectively. EPA has determined that the two methods are comparable (*see* ''Approval of EPA Methods 1664, Revision A, and 9071B for Determination of Oil and Grease and Non-polar Material in EPA's Wastewater and Hazardous Waste Programs'' (EPA–821–F–98–005, February 23, 1999, located at *www.epa.gov/ost/methods/1664fs.html*) and *Analytical Method Guidance for EPA Method 1664A Implementation and Use* (EPA–821–R–00–003, February 2000, located at *www.epa.gov/ost/methods/1664guide.pdf)).* Because freon is an ozone-depleting agent and becoming more expensive, EPA believes that facilities will prefer to measure oil and grease as HEM for the existing BPT limitations. EPA solicits comments on its notation for the two types of oil and grease limitations and standards in the proposed rule.

Chlorides measure the quantity of chloride ion dissolved in solution. In the meat processing industry, salts may be used for cleaning and antimicrobial purposes. The presence of chloride in discharges to surface waters may impact aquatic organisms because of their sensitivity to concentrations of salt. Although EPA determined that chlorides are a pollutant of concern, EPA is not proposing to regulate chlorides because biological systems are not specifically designed and operated to treat chlorides. In fact, EPA observed in some instances an increase in chlorides within the biological treatment system (*i.e.,* from the influent to the effluent) at several facilities. As a result, EPA believes that a facility will not be able to manage a biological treatment process to consistently

achieve effluent limitations for chlorides.

Total coliform, fecal coliform, E. coli, fecal streptococci, Salmonella, and Aeromonas were considered POCs because they provide information on concentrations of potential bacterial and other pathogens in meat processing wastewaters. Meat processing wastewaters are typically high in pathogens as they are associated with the organic solids such as feces, blood, and internal organ wastes that are produced in many of the processes. The control of pathogens is important to ensure efficient treatment to prevent impairment of surface water uses such as a drinking water source or as a recreation water. EPA is proposing to regulate fecal coliform as an indicator of the efficacy of treatment processes to control pathogens. Because analytical methods require that fecal coliforms be measured within eight hours of sample collection, EPA is currently conducting a study to determine if longer holding times affect the number of viable bacteria remaining in the sample during the eight hour holding time period. A number of organisms are being tested for, including fecal and total coliforms, *Escherichia coli,* Aeromonas species, fecal streptococci, Salmonella species and *Enterococcus faecium.* In addition, in developing the proposed limitations and standards, EPA measured fecal coliform counts in samples that had been retained longer than eight hours. The EPA study is testing for viable organisms between 8 and 48 hours holding time. Thus, EPA will conduct this holding time study for two purposes: to evaluate the use of data in developing the limitations and standards; and for possible revisions to currently approved methods. In the forthcoming NODA, EPA will provide the data collected during the study and its evaluation of the results.

In many instances, EPA found meat processing facilities utilizing chlorine to disinfect treated wastewaters. As a disinfectant, chlorine is highly toxic to aquatic life. In light of the fact that EPA is proposing to regulate fecal coliform, EPA is also considering regulating total residual chlorine as means to control the amount of chlorine that is discharged to surface waters for the final rule. However, EPA is not proposing to regulate total residual chlorine at this time. EPA solicits comment on this issue (*see* discussion on disinfection techniques in Section XI.A.3).

Metals may be present in meat processing wastewaters due to a variety of reasons. They are used as feed additives, they may be contained in sanitation products, or they may result from deterioration of meat processing machinery and equipment. Many metals are toxic to algae, aquatic invertebrates, and/or fish. Although metals may serve useful purposes in meat processing operations, most metals retain their toxicity once they are discharged into receiving waters. Although EPA observed that many of the biological treatment systems used within the meat processing industry provide substantial reductions of most metals, biological systems are not specifically designed and operated to remove metals. As a result, EPA believes that a facility will not be able to manage a biological treatment process to consistently achieve effluent limitations. Therefore, EPA is not proposing to regulate metals.

Pesticides are used for controlling animal parasites and may be present in wastewaters from initial animal wash and processing operations. Some pesticides are bioaccumulative and retain their toxicity once they are discharged into receiving waters. Similar to metals, although EPA observed that many of the biological treatment systems used within the meat processing industry provide adequate reductions of pesticides, most biological systems are not specifically designed and operated to remove pesticides. As a result, EPA believes that a facility will not be able to manage a biological treatment process to consistently achieve effluent limitations for pesticides. Therefore, EPA is not proposing to regulate pesticides.

3. Approach to Determining Long Term Averages, Variability Factors, and Effluent Limitations Guidelines and Standards

This subsection describes the statistical methodology used to develop long-term averages, variability factors, and limitations for BPT, BCT, BAT, and NSPS. The same basic procedures apply to the calculation of all effluent limitations guidelines and standards for this industry, regardless of whether the technology is BPT, BCT, BAT, or NSPS. For simplicity, the following discussion refers only to effluent limitations guidelines; however, the discussion also applies to new source standards.

The proposed limitations for pollutants for each option, as presented in today's notice, are provided as maximum daily discharge limitations and maximum monthly average discharge limitations. Definitions provided in 40 CFR 122.2 state that the ''maximum daily discharge limitation'' is the ''highest allowable 'daily discharge' '' and the ''maximum average for monthly discharge limitation'' is the ''highest allowable average of 'daily discharges' over a calendar month, calculated as the sum of all 'daily discharges' measured during a calendar month divided by the number of 'daily discharges' measured during that month.'' Daily discharge is defined as the 'discharge of a pollutant' measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.''

EPA calculates the limitations based upon percentiles chosen with the intention, on one hand, to accommodate reasonably anticipated variability within the control of the facility and, on the other hand, to reflect a level of performance consistent with the Clean Water Act requirement that these effluent limitations be based on the ''best'' technologies properly operated and maintained. The daily maximum limitation is an estimate of the 99th percentile of the distribution of the daily measurements. The maximum monthly average limitation is an estimate of the 95th percentile of the distribution of the monthly averages of the daily measurements. The percentiles for both types of limitations are estimated using the products of long-term averages and variability factors.

In the first of two steps in estimating both types of limitations, EPA determines an average performance level (the ''long-term average'') that a facility with well-designed and operated model technologies (which reflect the appropriate level of control) is capable of achieving. This long-term average is calculated from the data from the facilities using the model technologies for the option. EPA expects that all facilities subject to the limitations will design and operate their treatment systems to achieve the long-term average performance level on a consistent basis because facilities with well-designed and operated model technologies have demonstrated that this can be done. In the second step of developing a limitation, EPA determines an allowance for the variation in pollutant concentrations when processed through well designed and operated treatment systems. This allowance for variance incorporates all components of variability including process and wastewater generation, sample collection, shipping, storage, and analytical variability. This allowance is incorporated into the limitations through the use of the variability factors, which are calculated from the data from the facilities using the model technologies. If a facility operates its treatment system to meet the relevant long-term average, EPA expects the facility to be able to meet the limitations. Variability factors assure

that normal fluctuations in a facility's treatment are accounted for in the limitations. By accounting for these reasonable excursions above the long-term average, EPA's use of variability factors results in limitations that are generally well above the actual long-term averages.

EPA recognizes that, as a result of modifications to 40 CFR part 432, some dischargers may need to improve treatment systems, process controls, and/or treatment system operations in order to consistently meet effluent limitations based on revised effluent limitations guidelines and standards. EPA believes that this consequence is consistent with the Clean Water Act statutory framework, which requires that discharge limitations reflect the best available technology.

While the actual monitoring requirements will be determined by the permitting authority, the Agency has assumed thirty samples per month (i.e., daily monitoring) in determining the proposed maximum monthly average limitations. EPA recognizes that small poultry facilities are unlikely to operate on weekends and is soliciting comment on whether their monthly limitations should be based upon 20 days. Increasing or decreasing monitoring frequency does not affect the statistical properties of the underlying distribution of the data used to derive the limitations. However, monitoring less frequently theoretically results in average values that are more variable. As a consequence, average values based on 20 monitoring samples per month from small poultry facilities theoretically could be numerically larger than average values based upon 30 monitoring samples from non-small facilities. Thus, operators of small poultry facilities may find they need to design treatment systems to achieve an average below the long term average basis of the proposed limitations and/or more control over variability of the discharges in order to maintain compliance with the limitations. The MPP Development Document provides a list of both the proposed limitations and those derived using a 20-day monitoring assumption.

The long-term averages, variability factors, and limitations were based upon pollutant concentrations collected from two data sources: EPA sampling episodes and data submitted by industry. When the data from the EPA sampling episodes at a facility met the data editing criteria, EPA used the sampling data and any monitoring data provided by the facility. In the absence of transferable data, data received in the detailed surveys was used to develop LTAs. In particular for regulatory option2 for poultry:

- The further processing portion for TSS is estimated at 9.76 mg/L, which is the largest value in survey data for poultry facilities with further processing operations that has Option2 treatment in place, and
- The rendering portion for Oil and Grease(HEM) is estimated at 19.5 mg/L, which is the largest value in survey data for poultry facilities with rendering operations that has Option2 treatment in place.
- For one conventional pollutant, fecal coliform, the EPA sampling data show that chlorine disinfection followed by dechlorination is extremely effective treatment, and very low long-term averages were calculated for fecal coliform based on chlorine disinfection. However, EPA has decided not to use the long-term averages as calculated based on the fact that ultraviolet disinfection (or other types of disinfection) may overall be better for the environment than chlorine disinfection because they don't produce a residual effect that can be harmful to humans or aquatic life. Since ultraviolet disinfection (or other types of disinfection) are not always as effective as chlorine disinfection, EPA has decided to propose fecal coliform limitations equal to the existing ones, which are currently being met by MPP facilities with varying types of disinfection. EPA intends to further assess ultraviolet and other disinfection technologies following proposal and may set revised limitations for the final rule. EPA solicits data on disinfection technologies and comments on this decision. See MPP Development Document Section 11 for more information.

4. BPT

In general, the BPT technology level represents the average of the best existing performances of plants of various processes, ages, sizes or other common characteristics. Where existing performance is considered uniformly inadequate, BPT may be transferred from a different subcategory or industry. Limitations based upon transfer of technology must be supported by a conclusion that the technology is indeed transferable and a reasonable prediction that it will be capable of meeting the prescribed effluent limits. See *Tanners' Council of America* v. *Train,* 540 F.2nd 1188 (4th Cir. 1976). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where the process changes or internal controls are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which does not require the Agency to quantify the benefits in monetary terms. In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges expected after the application of BPT, the general environmental effects of the pollutants, and the cost and economic impact of the required pollution controls. When setting BPT limitations, EPA is required under Section 304(b) to perform a limited cost-benefit balancing to ensure the costs are not wholly out of proportion to the benefits achieved. See *Weyerhaeuser Company* v. *Costle,* 590 F.2d 1011 (D.C. Cir. 1978).

a. New Subcategories/Segments. EPA proposes BPT limitations for conventional pollutants (BOD, TSS, fecal coliform, pH, and oil and grease) and non-conventional pollutants (ammonia as nitrogen, total nitrogen and total phosphorus) for the following subcategories or segments that have not previously been regulated under part 432: Poultry First Processing and Poultry Further Processing. There are no BPT limitations in the current regulation applicable to these types of facilities.

b. Existing Subcategories/Segments. EPA is retaining the existing BPT limitations (BOD, TSS, fecal coliform, pH and oil and grease) for all facilities currently covered under 40 CFR part 432. In addition, EPA proposes new BPT limitations for larger MPP facilities. Specifically,

- For facilities in Subcategories A, B, C and D that slaughter more than 50 million pounds (LWK) per year, EPA proposes to add BPT limitations for one non-conventional pollutant (COD) to reflect the better design and operation of the existing BPT treatment technology. The Agency is proposing the same COD BPT limitation for each of these subcategories (Subcategories A, B, C and D).
- For facilities in Subcategories F, G, H and I that produce more than 50 million pounds of finished product per year, EPA proposes to add BPT limitations for one non-conventional pollutant (COD) to reflect the better design and operation of the existing BPT treatment technology. The Agency is proposing the same COD BPT limitation for each of these subcategories (Subcategories F, G, H and I).
- For facilities in Subcategory J that render more than 10 million pounds per year of raw material, EPA proposes to add a BPT limitation for one non-

conventional pollutant (COD) to reflect the better design and operation of the existing BPT treatment technology.

EPA is proposing the addition of COD to reflect the average of the best existing performances based on new information collected for this proposal (*see* Section V). Further, EPA has determined to revise BPT for COD because the biological treatment technology used as a basis for the limitations really represents BPT technology and is widely used in the industry. EPA considers the control of COD as the most appropriate parameter to represent the BPT level of control for non-conventional and conventional pollutants. The bulk parameter and nonconventional pollutant COD is an indicator of organic matter in the wastestream that is susceptible to strong oxidation, and as such would also measure organic material susceptible to biochemical oxidation, as well as some that is more difficult to oxidize biochemically. While it is EPA's view that it can revise BPT limitations for conventional pollutants without passing the BCT cost test (where the BPT effluent reduction ratio is favorable), the Agency is not generally inclined to do so unless the removals achieved by the existing BPT limitations are significantly fewer than would be achieved through revision of BPT. That was not the case here. Revising BPT to incorporate COD will not only remove large amounts of COD, but also achieve significant incidental removals of BOD_5 and TSS. For this reason, EPA has determined that it is not necessary to separately revise the BPT limits for BOD_5 and TSS in this case.

EPA is retaining the existing BPT limitations and proposing no new BPT limitations for ''small'' facilities. EPA used production based thresholds to subcategorized these small facilities (*see* Section III). EPA defines small MPP facilities as MPP facilities that produce less then the production based thresholds defined above (and in Section III). See also Section III.A.1 for a description of why and how EPA developed these production based thresholds.

5. BCT

The BCT methodology, promulgated in 1986 (51 FR 24974), discusses the Agency's consideration of costs in establishing BCT effluent limitations guidelines. EPA evaluates the reasonableness of BCT candidate technologies (those that are technologically feasible) by applying a two-part cost test:

(1) The POTW test; and

(2) The industry cost-effectiveness test.

In the POTW test, EPA calculates the cost per pound of conventional pollutant removed by industrial discharges in upgrading from BPT to a BCT candidate technology and then compares this cost to the cost per pound of conventional pollutant removed in upgrading POTWs from secondary treatment. The upgrade cost to industry must be less than the POTW benchmark of $0.25 per pound (in 1976 dollars).

In the industry cost-effectiveness test, the ratio of the incremental BPT to BCT cost divided by the BPT cost for the industry must be less than 1.29 (i.e., the cost increase must be less than 29 percent). See Section VIII.F for details on the calculation of the BCT cost tests.

In developing BCT limits, EPA considered whether there are technologies that achieve greater removals of conventional pollutants than proposed for BPT, and whether those technologies are cost-reasonable according to the prescribed BCT tests. For subcategories A–D, E–I, K and L, EPA identified no technologies that can achieve greater removals of conventional pollutants than the BPT standards that also pass the BCT. Accordingly, EPA proposes to establish BCT effluent limitations equal to the current BPT limitations for these subcategories. In the Rendering subcategory (subcategory J), EPA found that Option 2 would achieve greater removal of conventional pollutants and was cost-reasonable under the BCT cost tests and therefore proposes this technology as BCT.

6. Consideration of Statutory Factors for BAT and NSPS Technology Options Selection

Based on the record before it, EPA has determined that each proposed model technology is technically available. EPA is also proposing that each is economically achievable for the segment to which it applies. Further, EPA has determined, for the reasons set forth in Section X, that none of the proposed technology options has unacceptable adverse non-water quality environmental impacts. EPA also considered the age, size, processes, and other engineering factors pertinent to facilities in the proposed segments for the purpose of evaluating the technology options. EPA is proposing to establish separate limits for facilities on the basis of size. As discussed in more detail in Section III.A.1 above, EPA is not proposing to establish more stringent limitations to small meat slaughterers nor is the Agency proposing to revise the limitations for the small meat processors subcategory (Subpart E). EPA survey data indicate that there are approximately 107 small meat processing facilities that would have been subject to any new limitations. EPA estimates that the additional pollutant reductions achieved by establishing more stringent limitations for these small facilities would be minimal. For example, under regulatory option BAT 3, pollutant load reductions attributable to small facilities is less than 0.1 percent of the total expected pollutants load reductions.

In selecting its proposed NSPS technology for these segments and subcategories, EPA considered all of the factors specified in CWA Section 306, including the costs of achieving effluent reductions and the effect of costs on new projects (barrier-to-entry). The Agency also considered energy requirements and other non-water quality environmental impacts for the proposed NSPS options and concluded that these impacts were no greater than for the proposed BAT technology options and are acceptable. EPA therefore concluded that the NSPS technology basis proposed constitutes the best available demonstrated control technology for those segments.

B. Pretreatment Standards

National pretreatment standards are established for those pollutants in wastewater from indirect dischargers that may pass through, interfere with or are otherwise incompatible with POTW operations. Generally, pretreatment standards are designed to ensure that wastewaters from direct and indirect industrial dischargers are subject to similar levels of treatment. In addition, many POTWs are required to develop and implement local treatment limits applicable to their industrial indirect dischargers to satisfy any local requirements (*see* 40 CFR 403.5). POTWs that are not required to implement approved programs, and have not had interference or pass through issues are not required to develop and implement local limits. There are approximately 1,500 POTWs with approved Pretreatment Programs and 13,500 small POTWs that are not required to develop and implement approved Pretreatment Programs.

National pretreatment standards have three principal objectives: (1) Prevent the wide-scale introduction of pollutants into publicly owned treatment works (POTWs) that will interfere with POTW operations, including use or disposal of municipal sludge; (2) prevent the introduction of pollutants into POTWs which will pass through the treatment works or will

otherwise be incompatible with the treatment works; and (3) improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

Currently there are no categorical pretreatment standards for the MPP point source category. EPA is not proposing new pretreatment standards for existing or new MPP indirect dischargers. While EPA has some information regarding effluents from MPP indirect dischargers that may pass through, interfere with, or otherwise be incompatible with POTW operations, it is not clear that it justifies categorical pretreatment standards for this industry. The following sections discuss the information EPA was able to collect and what information EPA is soliciting in this proposal and planning to collect after proposal.

1. POTW Interference

As noted above, there are no categorical pretreatment standards for MPP indirect dischargers, however, the national pretreatment standards prohibit the discharge of, ''Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW ,'' (*see* 40 CFR 403.5(b)(4)). All indirect dischargers are prohibited from introducing into a POTW any pollutant(s) which cause pass through or interference whether or not categorical pretreatment standards or any national, State, or local pretreatment requirements apply (*see* 40 CFR 403.5(a)(1)). POTWs are required to develop and enforce Pretreatment Programs and/or set local limits to ensure renewed and continued compliance with the POTW's NPDES permit or sludge use or disposal practices (*see* 40 CFR 403.5(c)). According to data provided in the detailed surveys, approximately one-third of the MPP facilities discharge to POTWs which discharge less than 5 MGD. These POTWs are often not required through their NPDES permits to implement Pretreatment Programs.

EPA typically does not establish pretreatment standards for conventional pollutants (e.g., BOD_5, TSS, Oil and Grease) since POTWs are designed to treat these pollutants, but EPA has exercised its authority to establish categorical pretreatment standards for conventional pollutants. For example, EPA established categorical pretreatment standards for new and existing sources with a one day maximum concentration of 100 mg/L oil and grease in the Petroleum Refining Point Source Category (40 CFR 419). This standard is based on the performance of either of two technologies (primary oil removal or DAF). EPA identified this pretreatment standard as necessary to ''minimize the possibility of slug loadings of oil and grease being discharged to POTW,'' (Docket No. W–01–06, Record No. 00167). EPA notes that oil and grease from Petroleum Refineries is not the same material as oil and grease from MPP facilities. EPA solicits comment on the use of the 100 mg/L standard for preventing POTW interference by vegetable/animal oil and grease discharges.

EPA previously identified that high organic loadings and grease remaining in the MPP facility effluent may cause difficulty in the POTW treatment system and that the performance of trickling filters appear to be particularly sensitive (Docket No. W–01–06, Record No.00162; Record No.00140). High loadings of oil and grease can also clog pipes and promote the growth of filamentous bacteria which can inhibit the performance of the POTW (especially trickling filters which are more often used at smaller POTWs) (Docket No. W–01–06, Record No. 00085). A concentration of 100 mg/L for Oil and Grease is often cited as a local limit and compliance with this limit may require an effective dissolved air floatation device in addition to a catch basin and other primary treatment system (Docket No. W–01–06, Record No.00162; Record No.00140). EPA recognizes that much of this data was developed in the 1970s but believes that it is still relevant today.

EPA also previously identified that oil and grease of petroleum origin has been reported to interfere with the aerobic processes of POTWs (Docket No. W–01–06, Record No. 00167). It is believed that the principal interference is caused by the attachment of oil and grease of petroleum origin onto floc particles, resulting in a slower settling rate, loss of solids by carryover out of the settling basin, and excessive release of BOD from the POTW to the environment. Additionally, EPA identified that oil and grease of petroleum origin may coat the biomass in activated sludge treatment units, thereby interfering with oxygen transfer and reducing treatment efficiency.

EPA Regional and State permit writers and pretreatment coordinators identified approximately twenty cases where MPP indirect dischargers interfered with POTW operations (Docket No. W–01–06, Record No. 10037). While some specific details are lacking, these cases generally describe how overloadings of various parameters (e.g., BOD_5, Oil and Grease, TSS, Ammonia) and unequalized flows from MPP indirect dischargers have resulted in POTW interference incidents and POTW NPDES permit violations.

It is not clear, however, whether these identified interference incidents represent an industry-wide problem or if they are site specific and more appropriately addressed by the general pretreatment prohibitions and local limits, or by POTW upgrades. Some of these instances do involve violations of local limits or were resolved by POTW upgrades, and therefore the general pretreatment prohibitions and local limits did work. However, EPA does not know how frequently this was the case. More detailed information will be gathered to determine whether these facilities were in violation of the local limits, POTWs have upgraded since the incident, or these were one-time problems. EPA solicits more detailed information on these identified interference incidents and other POTW interference and pass through incidents. EPA will collect more information from EPA and State pretreatment program coordinators, POTWs, and MPP indirect dischargers after proposal to: (1) Understand whether the general pretreatment prohibition is sufficient to address POTW interference and pass through incidents for this industry; and (2) determine if reoccurrences of these POTW interference and pass through incidents necessitate categorical pretreatment standards at the time of the final rule for non-small facilities.

Many POTWs are capable of controlling MPP indirect discharges through local limits or sufficient dilution with domestic wastewaters. Most of the approximately 1,500 POTWs with approved Pretreatment Programs have numeric oil and grease limits and many POTWs without approved Pretreatment Programs also have oil and grease limits. For example, EPA identified approximately two dozen Pretreatment Programs with local limits on oil and grease (Docket No. W–01–06, Record No. 10037). Oil and grease limits were most often in the range of 50 mg/L to 450 mg/L with 100 mg/L as the most common reported limit. Other Pretreatment Programs use descriptive requirements to limit interference from high oil and grease concentrations.

While most POTWs are not significantly affected by MPP indirect discharges, EPA notes that some, primarily smaller POTWs, including those not required to implement approved Pretreatment Programs, may have difficulty in properly treating MPP indirect discharges or in setting local

limits. Some POTWs may be particularly susceptible to high and variable organic and oil and grease loadings. If MPP indirect dischargers are unable to reduce or equalize their high organic and oil and grease concentrations, some small POTWs receiving these discharges may be unable to dampen the peak loadings or equalize high organic and oil and grease concentrations from MPP indirect dischargers with domestic wastewater. MPP indirect discharges range from 3 to 20 times in organic concentrations than typical domestic wastewater (Docket No. W–01–06, Record No. 10038). Small POTW facilities are generally more susceptible to high and variable loadings from large MPP indirect dischargers. Small POTWs often use less sophisticated wastewater treatment systems (*e.g.,* trickling filters, simple anaerobic lagoons) which may not be able to operate properly during periods of high flow or handle slug loads discharged by MPP facilities after a shut-down period (*e.g.,* no or low MPP indirect loadings during weekend operations when there are no or limited MPP operations taking place). Trickling filters at small POTW facilities may be unable to effectively process high organic and oil and grease concentrations and may allow unacceptable amounts of BOD and oil and grease concentrations to pass through if MPP indirect dischargers are not properly controlled. Anaerobic lagoons at small POTW facilities may be unable to convert ammonia to nitrate (a less toxic form of nitrogen) and are therefore unsuitable as a treatment step to ensure that the receiving water doesn't receive toxic amounts of ammonia. In one such instance, a MPP facility was directed to establish biological pretreatment (by installing a biological sequencing batch reactor) in order to discharge to the local POTW which has a simple anaerobic lagoon system (Docket No. W–01–06, Record No. 10039).

Industry and the Association of Metropolitan Sewerage Agencies (AMSA) stated to EPA that cases of POTW interference from MPP indirect dischargers are relatively infrequent occurrences and that they are best handled through local limits and proper enforcement (Docket No. W–01–06, Record No. 10040). AMSA is a membership organization that represents approximately 10% of the largest POTWs in the United States (about 150 of the 1,500 POTWs with Pretreatment Programs) and some small POTWs. However, none of the approximately 20 cases of interference incidents identified in the record involve AMSA members. EPA solicits information on other potential positive and negative impacts on POTW operations if EPA were to set national categorical pretreatment standards for the prevention of interference of POTW operations. AMSA has stated that any attempt to reduce organic loadings from MPP facilities would also reduce the amount of revenue collected by their POTW and have a detrimental effect on its operations. (Docket No. W–01–06, Record No. 10040). EPA also solicits information on whether MPP indirect dischargers are causing interference issues on a national, on-going basis and whether POTWs are addressing these interference issues in a timely manner once they are identified. Finally, EPA also solicits information on whether increased attention from Federal and State Pretreatment Programs and/or Total Maximum Daily Load (TMDL) programs would sufficiently deal with MPP indirect discharges that may cause POTW interference in lieu of national categorical pretreatment standards.

2. POTW Pass Through

As noted above, Federal categorical pretreatment standards are also designed to prevent the introduction of pollutants into POTWs which will pass through the treatment works or will otherwise be incompatible with the treatment works. Generally, to determine if pollutants pass through POTWs, EPA compares the percentage of the pollutant removed by well-operated POTWs achieving secondary treatment with the percentage of the pollutant removed by each of the indirect technology options. EPA identified the following MPP pollutants, based on EPA sampling efforts, that EPA would normally determine to pass through using EPA's standard methodology (i.e., indirect technology option has a percent removal higher than the POTW percent removal).

TABLE XI.B–1.—MEAT POLLUTANTS OF CONCERN REMOVAL EFFICIENCIES

MPP pollutant of concern	CAS number	PSES indirect option 1 treatment efficiency	POTW treatment efficiency [1]
Oil and Grease	C036	95	86
Copper	7440508	91	84
Molybdenum	7439987	82	19
Zinc	7440666	91	79

Note 1: These POTW removal efficiencies are from the 50-POTW study (Docket No. W–01–06, Record No. 00180).

TABLE XI.B–2.—POULTRY POLLUTANTS OF CONCERN REMOVAL EFFICIENCIES

MPP pollutant of concern	CAS number	PSES indirect option treatment efficiency	POTW treatment efficiency [1]
Oil and Grease	C036	90	87
Total Kjeldahl Nitrogen (TKN)	C021	73	57
Total Phosphorus	14265442	67	57
Barium	7440393	78	16
Manganese	7439965	60	36
Nickel	7440020	65	51
Zinc	7440666	53	79

Note 1: These POTW removal efficiencies are from the 50–POTW study (Docket No. W–01–06, Record No. 00180).

PSES Indirect Option 1 (PSES1) is a physical-chemical treatment system [dissolved air floatation (DAF) with chemical flocculant addition, equalization tank] that primarily targets conventional pollutants including oil and grease. As the tables above indicate, PSES1 shows some metal and nutrient removals but it is not clear why a technology designed to control conventional pollutants also affects the level of other pollutants. EPA notes that many of these pollutants of concern that would normally be determined to exhibit pass through do so in low concentrations. For example metal concentrations in MPP indirect dischargers are relatively low in comparison with conventional pollutants concentrations (e.g., BOD, TSS, and oil and grease). EPA will further investigate the data and potential mechanisms behind the removals of metals and nutrients by PSES1 to confirm the PSES1 treatment efficiencies and at the final regulation may issue pretreatment standards based on pass through for all or a sub-set of these pollutants.

Further, EPA has received comments from AMSA that the database used to characterize POTW removal efficiencies is outdated and current POTW performance has improved. EPA is considering different options on how to examine current POTW performance. One option is to evaluate removal efficiencies based on a subset of the 50–POTW database that mainly includes those POTWs that receive large amounts of industrial and/or MPP indirect discharges. EPA solicits comment on how to examine current POTW performance for all pollutants including those pollutants in Tables XI.B–1 and XI.B–2. EPA will publish its revised analysis of PSES1 treatment efficiencies, loadings removals, and POTW removal efficiencies in the forthcoming NODA for public comment. EPA also solicits data regarding the POTW removal efficiencies for all pollutants identified in Tables VII.C–1 and VII.C–2 (*see* also Section XV for data submission instructions).

EPA seeks information on any cases of significant pass through from MPP indirect dischargers where the local limits were not set or exceeded and comments on whether EPA should promulgate pretreatment standards for certain parameters (e.g., nutrients, TDS) based on their potential pass through of POTWs into receiving waters.

Although some pollutants may pass through POTWs following fairly limited treatment, current information available to EPA suggests that the overall levels of these pollutants in MPP raw wastewater does not justify establishing numeric categorical pretreatment standards. EPA is not proposing to establish pretreatment standards based on the difference between MPP pretreatment options and POTW removal efficiencies because the Agency is uncertain that it accurately reflects the incidences of pass through for this industry as a whole. MPP Development Document details the national estimates of pollutants of concern that have greater removal efficiencies under each indirect technology option than POTWs for each of the MPP subcategories.

3. MPP Pretreatment Options Considered

Before determining no pass through or interference that justifies proposing additional regulations, EPA considered four pretreatment options for both existing and new sources. Table XI.B–3 details the summary of EPA's economic analysis of the PSES1 pretreatment option for the various MPP subcategories. EPA includes this information here for public comment. If information presented during the comment period following proposal or the NODA shows that there is sufficient interference or pass through to justify categorical pretreatment standards for this industry, EPA will rely on the information provided here and in the record of this rulemaking to promulgate pretreatment standards. The public is encouraged to comment fully on the following information. With respect to preventing interference incidents, after proposal EPA will evaluate comments and additional information to determine whether another annual production size cut-off for MPP indirect dischargers should be established. Additionally, EPA is soliciting comment on whether it should exempt from categorical pretreatment standards MPP indirect discharges who are below 5% of POTW dry weather hydraulic or organic capacity of the POTW treatment or another percentage level that is appropriate to prevent interference incidents if EPA decides to set categorical pretreatment standards for non-small facilities in the final rule.

TABLE XI.B–3.—ECONOMIC IMPACTS AND TOXIC COST-EFFECTIVENESS SUMMARY TABLE FOR PSES OPTION 1, NON-SMALL FACILITIES

MPP industry sector (40 CFR part 432, subcategory)	Cost/net income (in percent)	Pre-tax annualized cost ($1999 M)	PSES option 1 toxic cost-effectiveness	
			Removals (lb-eq)	$1981/lb-eq
Red Meat First Processors (A–D)	0.57	$7.0	240,421	17
Red Meat Further Processors (F–I)	0.80	$18.8	76,890	143
Independent Renderers (J)	0.50	$1.3	3,918	198
Poultry First Processors (K)	0.55	$10.8	377,651	17
Poultry Further Processors (L)	1.50	$15.3	49,950	178

EPA notes that the PSES1 pretreatment option cost is generally at or below 1% of the facility's net income (profit). Also, based on detailed surveys received in time for EPA's analysis, EPA notes that PSES1 is widely used in non-small MPP pretreatment operations to reduce BOD and oil and grease concentrations. Results from the MPP Detailed Survey used in estimating compliance costs indicate that 26 of the 103 indirect MPP facilities utilize PSES1. The MPP Detailed Survey also identified the following breakdown of treatment-in-place: (1) 64 facilities utilize no pretreatment or pretreatment less effective than PSES1 (*e.g.,* catch basins); (2) 12 facilities utilize PSES2; (3) 1 facility utilize PSES3; and (4) no facilities utilize PSES4. Based on MPP Detailed Survey data, the average oil and grease concentration from MPP indirect facilities employing PSES1 technology (equalization basin, DAF) is 99.5 mg/L.

As previously stated, EPA is not proposing new pretreatment standards for existing or new MPP indirect dischargers because EPA did not have sufficient information to demonstrate that effluents from MPP indirect dischargers interfere with, are incompatible with, or pass through

POTW operations on enough of a wide-scale basis to justify national categorical pretreatment standards. Further, EPA has received comments from AMSA that the database used to characterize POTW removal efficiencies is outdated and current POTW performance has improved. EPA will work with States and pretreatment control authorities to collect additional data on a more systematic basis to determine whether or not national categorical pretreatment standards are necessary. If the additional and existing data indicate that MPP indirect dischargers interfere with or pass through POTW operations, one or more of the following options may be used to establish national categorical pretreatment standards in the final rule for non-small indirect dischargers.

- Establish numeric pretreatment standards for oil and grease and/or ammonia as nitrogen based on PSES1 (equalization and DAF) to prevent POTW interference;
- Establish numeric pretreatment standards for oil and grease and/or ammonia based on equalization alone to reduce MPP indirect discharge variable loads which can, in some cases, prevent POTW interference;
- Establish numeric pretreatment standards to prevent POTW pass through (e.g., oil and grease, nutrients, and/or metals);
- Establish narrative pretreatment standards for oil and grease and/or ammonia as nitrogen based on PSES1 (equalization and DAF) or equalization along to prevent POTW interference;
- Allow POTWs to waive national categorical pretreatment standards for MPP indirect dischargers that do not interfere with POTW operation (e.g., MPP indirect discharger below 5% of POTW dry weather hydraulic or organic capacity of the POTW treatment plant);
- Allow a POTW to waive national categorical pretreatment standards for ammonia for any MPP indirect discharges it receives when that POTW has nitrification capability (*see* 40 CFR 439 as an example of this type of waiver);
- Allow MPP indirect dischargers to demonstrate compliance with either numeric pretreatment standards or with EMS/BMP voluntary alternatives (*see* Section XI.F);
- Establish national categorical pretreatment standards for MPP indirect dischargers based on compliance with BMPs or a regulatory BMP alternative.

EPA is soliciting comment on 100 mg/L as a potential pretreatment maximum daily standards for oil and grease and/or ammonia as nitrogen. EPA notes that this is not completely a parallel case and EPA solicits comment on how EPA should consider setting pretreatment standards for ammonia as nitrogen to prevent interference. EPA is basing the 100 mg/L potential pretreatment maximum daily standards on the Petroleum Refining Industry oil and grease and ammonia standards because those standards were designed to prevent POTW interference, which may be a problem for the meat and poultry products industry as well. The Petroleum Refining Industry oil and grease pretreatment standard of 100 mg/L is based on the necessity to minimize POTW interference by minimizing the possibility of slug loadings of oil and grease being discharged to POTWs. (Docket No. W–01–06, Record No. 00167). Ammonia as nitrogen concentrations above 100 mg/L can exhibit inhibitory effects on the activated sludge process and cause POTW interference (Docket No. W–01–06, Record No. 00167). EPA is also soliciting comment on potential concentration pretreatment maximum daily standards for oil and grease and ammonia as nitrogen, respectively based on the performance of PSES1 technology (DAF with chemical flocculant addition, equalization tank). These PSES1 concentration based standards are all below 100 mg/L for oil and grease with the exception of one limit for poultry facilities that do slaughtering and rendering operations (*see* MPP Development Document). EPA solicits comment on whether these potential pretreatment maximum daily standards for oil and grease and ammonia as nitrogen would sufficiently prevent POTW interference. EPA is also soliciting comment whether these standards should be presented as production based standards (e.g., lb-pollutant/1000 lb-LWK) (*see* MPP Development Document).

C. Meat Facilities (Subcategories A, B, C, D, F, G, H and I)

After considering all of the technology options described in Section VII.A, in light of the factors specified in Section 304(b)(2)(B) and 306 of the Clean Water Act, as appropriate, EPA proposed to select the technology options identified below as BPT, BAT, BCT, and NSPS for Subcategories A, B, C, D, F, G, H and I of the proposed rule. The proposed effluent limitations apply only to meat facilities that slaughter more than 50 million pounds per year (for Subcategories A, B, C and D) or produce more than 50 million pounds per year of finished products (for Subcategories F, G, H and I). EPA is not revising limitations and standards for meat facilities in Subpart E as all of these facilities are small facilities (*see* Section III.A.1).

1. Subcategories A through D (Meat Slaughtering Facilities)

a. Regulated Pollutants. i. BPT EPA proposes establishing BPT limitations for COD. These pollutants are characteristic of meat slaughtering wastewater. These proposed regulated pollutants are key indicators of the performance of the secondary biological treatment process, which is the key component of the model BPT treatment systems for these subcategories.

ii. BAT. EPA proposes establishing BAT limitations for ammonia-N, total nitrogen and total phosphorus. These pollutants are characteristic of meat slaughtering wastewater. These proposed regulated pollutants are key indicators of the performance of the tertiary biological treatment process, which is the technology basis for the BAT and NSPS requirements for these subcategories.

iii. NSPS. EPA proposes to regulate the same pollutants for NSPS as those for BAT, with the addition of BOD, TSS, oil and grease (measured as HEM) and fecal coliform.

b. Technology Selected. i. BPT. The Agency is proposing effluent limitations guidelines based on BPT–2 for Subcategories A through D. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: equalization, dissolved air flotation, secondary biological treatment including some degree of nitrification and chlorination/dechlorination. BPT–2 represents an improved version of the existing BPT technology. EPA has determined that the cost and removal comparison for this option is reasonable.

As presented in Section VII, three BPT options were considered. EPA estimated the costs and pollutant reductions that would be achieved if these options were applied to all 71 facilities subject to today's proposal. Limitations based on BPT–2 remove at least 12.3 million pounds of pollutants over current discharge at an annualized compliance cost of $9.9 million ($1999). Limitations based on BPT–2 results in a cost to net income ratio of 0.28%, which means that approximately 0.28% of a facility's profits would be spent on compliance if they were to implement this option. Also, the results of the BPT cost to effluent reductions benefits is $0.81 ($1999/pound). Thus, this option is considered cost-reasonable.

EPA also evaluated option 3 and option 4 as basis for establishing BPT limitations that would be more stringent than the level of control being proposed

today. However, EPA believes that Option 2 represent BPT (or ''average of the best'') treatment for this industry subcategory. These options were evaluated in the BCT analysis.

ii. BAT. The Agency is proposing effluent limitations guidelines based on BAT–3 for Subcategories A through D. The treatment technologies that serve as the basis for the development of the proposed BAT limits are: equalization, dissolved air flotation and secondary biological treatment with nitrification and denitrification. EPA has determined that the cost for nutrient removal for this subcategory is cost effective; *i.e.* is less than the cost for nutrient removal performed at a POTW. The Economic Analysis Section (*see* Section VIII) presents the methodology for evaluating cost effectiveness for nutrient pollutants. As presented in Section VII.A, three BAT options were under consideration. Effluent limitations based on BAT–2 remove approximately 2.0 million pounds of phosphorus over current discharge at an annualized compliance cost of $9.9 million ($1999). BAT–3 removes an additional 40 million pounds of nitrogen and phosphorus over BAT–2 at an additional annualized compliance cost of $32.3 million ($1999). Both of these options result in a cost to net income ratio of less than 1.5%, so both are considered economically achievable. However, since BAT–3 removes more pounds of nutrients at a cost that is economically achievable, EPA has chosen to propose effluent limitations based on BAT–3.

EPA also evaluated BAT–4 as a basis for establishing BAT more stringent than the level of control being proposed today. As was the case for BAT–3, the cost to net income of less than 2.4% shows that the option is economically achievable. However, EPA is not proposing to establish limits based on BAT–4 because BAT–3 achieves nearly equivalent reductions in nitrogen and phosphorus for much less cost. EPA has determined that BAT–3 would remove 42.8 million pounds of nitrogen and phosphorus per year at a total annualized cost of $42.2 million ($1999). In contrast, BAT–4 would remove 44.9 million pounds of nitrogen and phosphorus per year at a total annualized cost of $73.5 million ($1999). In view of the fact that BAT–4 appears to achieve an increase in removals of only 5.0% and yet would prompt annualized costs to increase by 74%, EPA has determined that BAT–3, not BAT–4 is the ''best available'' technology economically achievable for Subcategories A, B, C and D.

iii. NSPS. The treatment technologies that serve as the basis for the development of the proposed NSPS limits are the same as the BAT for these subcategories. As was the case for BAT, EPA did not pursue additional, more stringent, options for NSPS because as with existing sources Option 4 is not expected to achieve significant incremental pollutant reductions. Further EPA does not expect the cost to construct the treatment system to achieve Option 4 performance would be significantly less for a new source than if would be for an existing source to retrofit their existing system. Therefore, EPA proposes BAT–3 as the technology basis for NSPS for subcategories A–D because EPA believes it represents the best demonstrated technology for this subcategory.

2. Subcategories F through I (Meat Further Processing Facilities)

a. Regulated Pollutants.

i. BPT EPA proposes establishing BPT limitations for COD. These pollutants are characteristic of meat further processing wastewater. These proposed regulated pollutants are key indicators of the performance of the secondary biological treatment process, which is the key component of the model BPT treatment systems for these subcategories.

ii. BAT. EPA proposes establishing BAT limitations for ammonia-N, total nitrogen and total phosphorus. These pollutants are characteristic of meat further processing wastewater. These proposed regulated pollutants are key indicators of the performance of the tertiary biological treatment process, which is the key component of the model BAT and NSPS treatment system for these subcategories.

iii. NSPS EPA proposes to regulate the same pollutants for NSPS as those for BAT, with the addition of BOD, TSS, oil and grease (measured as HEM) and fecal coliform.

b. Technology Selected. i. BPT The Agency is proposing to establish effluent limitations based on BPT–2 for Subcategories F through I. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: Equalization, dissolved air flotation, secondary biological treatment and chlorination/dechlorination. As discussed above, the proposed BPT–2 limits for COD reflects average of the best performance of the existing technology in place at meat processing facilities, which also calls for secondary biological treatment. EPA has determined that the cost and removal comparison for this option is reasonable.

As presented in Section VII.A, three BPT options were under consideration. BPT–2 removes at least 0.25 million pounds of pollutants over current discharge at an annualized compliance cost of $0.4 million ($1999). Option 2 results in a cost to net income ratio of 0.14%, which means that approximately 0.14% of a facility's profits would be spent on compliance if they were to implement this option. Also, the results of the BPT cost to effluent reductions benefits is $1.59 ($1999/pound). Thus, this option is considered cost-reasonable.

EPA also evaluated option 3 and option 4 as basis for establishing BPT more stringent than the level of control being proposed today. However, EPA believes that Option 2 represent BPT (or ''average of the best'') treatment for this industry subcategory. These options are considered in the evaluation of BCT controls.

ii. BAT. The Agency is proposing to establish effluent limitations based on BAT–3 for Subcategories F, G, H and I. The treatment technologies that serve as the basis for the development of the proposed BAT limits are: equalization, dissolved air flotation and secondary biological treatment with nitrification and denitrification. EPA has determined that the cost for nutrient removal for this subcategory is cost effective and less than the cost for nutrient removal performed at a POTW. As presented in Section VII.A, three BAT options were under consideration. EPA estimates that the 20 facilities in Subparts F through I would achieve a removal approximately 0.04 million pounds of phosphorus over current discharge at an annualized compliance cost of $0.4 million ($1999) with BAT–2. BAT–3 removes an additional 2.08 million pounds of nitrogen and phosphorus over BAT–2 at an additional annualized compliance cost of $0.1 million ($1999). Both of these options result in a cost to net income ratio of less than 0.5%, so both are considered economically achievable. However, since BAT–3 removes more pounds of nutrients at a cost that is economically achievable, EPA has chosen to propose effluent limitations based on BAT–3.

EPA also evaluated BAT–4 as a basis for establishing BAT more stringent than the level of control being proposed today. As was the case for BAT–3, the cost to net income of less than 1.4% shows that the option is economically achievable. However, EPA is not proposing to establish limits based on BAT–4 because it determined that BAT–3 achieves nearly equivalent reductions in nitrogen and phosphorus for much less cost. EPA has determined that

BAT–3 would remove 2.12 million pounds of nitrogen and phosphorus per year at a total annualized cost of $0.5 million ($1999). In contrast, BAT–4 would remove only 4,530 additional pounds of nitrogen and phosphorus per year at a total annualized cost of $3.5 million ($1999). In view of the fact that BAT–4 appears to achieve an increase in removals of only 0.2% and yet would prompt annualized costs to increase by 600%, EPA has determined that BAT–3, not BAT–4 is the ''best available'' technology economically achievable for Subcategories F, G, H and I.

iii. NSPS. As was the case for BAT, EPA did not pursue additional, more stringent, options for NSPS because as with existing sources Option 4 is not expected to achieve significant incremental pollutant reductions. Further EPA does not expect the cost to construct the treatment system to achieve Option 4 performance would be significantly less for a new source than if would be for an existing source to retrofit their existing system. Therefore, EPA proposes BAT–3 as the technology basis for NSPS for Subcategories F–I because EPA believes it represents the best demonstrated technology for this subcategory.

D. Independent Rendering Facilities (Subcategory J)

After considering all of the technology options described in Section VII.A, in light of the factors specified in section 304(b)(2)(B) and 306 of the Clean Water Act, as appropriate, EPA proposed to select the technology options identified below as BPT, BAT, BCT, and NSPS for Subcategory J of the proposed rule.

1. Regulated Pollutants. a. BPT. EPA proposes establishing BPT limitations for COD. These pollutants are characteristic of meat rendering wastewater. These proposed regulated pollutants are key indicators of the performance of the secondary biological treatment process, which is the key component of the model BPT treatment systems for these subcategories.

b. BAT. EPA proposes to revise BAT limitations for ammonia-N. This pollutant is characteristic of meat rendering wastewater. The proposed regulated pollutant is a key indicator of the performance of the secondary biological treatment process, which is the key component of the model BPT, BAT and NSPS treatment system for this subcategory.

c. NSPS. EPA proposes to revise the new source performance standards for BOD, TSS, oil and grease (measured as HEM), fecal coliform and ammonia.

2. Technology Selected

a. BPT. The Agency is proposing to establish effluent limitations based on BPT–2 for Subcategory J. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: Equalization, dissolved air flotation and secondary biological treatment with nitrification. Since secondary biological treatment already accomplishes some nitrification, EPA believes that the proposed BPT is an improved version of the existing BPT technology basis which calls for secondary biological treatment. Option 2 results in a cost to net income ratio of 0.68%, which means that approximately 0.68% of a facility's profits would be spent on compliance if they were to implement this option. Also, the results of the BPT cost to effluent reductions benefits is $0.03 ($1999/pound). Thus, this option is considered cost-reasonable.

EPA also evaluated option 3 and option 4 as basis for establishing BPT more stringent than the level of control being proposed today. However, EPA believes that Option 2 represent BPT (or ''average of the best'') treatment for this industry subcategory. These options were considered as possible options for revising the BCT limitations.

b. BAT. The Agency is proposing to establish effluent limitations based on BAT–2 for Subcategory J. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: Equalization, dissolved air flotation and secondary biological treatment with nitrification. EPA has determined that this option is cost-effective and economically achievable. As presented in Section VII.A, three BAT options were under consideration. EPA estimates that the 23 existing facilities that would be subject to today's proposal would achieve removals of approximately 87,000 pounds of nitrogen and phosphorus over current levels discharged at an annualized compliance cost of $0.6 million ($1999) under BAT–2. BAT–3 removes an additional 396,000 pounds of phosphorus over BAT–2 at an additional annualized compliance cost of $3.7 million ($1999). BAT–2 results in a cost to net income ratio of less than 0.7%, so this option is considered economically achievable. BAT–3 results in a cost to net income ratio of greater than 5.5%, which is also considered economically achievable. However, since EPA has determined that the cost for nutrient removal for BAT–3 is not cost effective and is more than the cost for nutrient removal performed at a POTW, EPA has chosen to propose effluent limitations based on BAT–2 for Subcategory J.

EPA also evaluated BAT–4 as a basis for establishing BAT more stringent than the level of control being proposed today. The cost to net income of more than 6.7% for BAT–4 is even greater than the ratio for Option 3. Since the Agency is not proposing Option 3 on the basis of the potential economic impact, EPA is not proposing Option 4 which has a greater potential impact. Thus, EPA has determined that BAT–2 is the ''best available'' technology economically achievable for Subcategory J.

c. NSPS. The treatment technologies that serve as the basis for the development of the proposed NSPS limits are the same as the BAT and BPT for this subcategory. EPA does not expect a substantial cost savings for new facilities to design and construct a treatment system to achieve more stringent effluent standards consistent with either Option 3 or 4. Thus, EPA believes Options 3 and 4 could pose a barrier to entry for new sources in this Subcategory. Therefore, EPA proposes BAT–2 as the technology basis for NSPS for Subcategory J because EPA believes it represents the best demonstrated technology economically achievable for this subcategory.

E. Poultry Facilities (Subcategories K and L)

EPA is proposing to establish different effluent limitations to apply only to Poultry facilities that slaughter more than 10 million pounds per year (for Subcategory K) or produce more than 7 million pounds per year of finished products (for Subcategory L).

1. Poultry First Processing Facilities (Subcategory K)

After considering all of the technology options described in Section VII.A, in light of the factors specified in section 304(b)(2)(B) and 306 of the Clean Water Act, as appropriate, EPA proposes to select the technology options identified below as BPT, BAT, BCT, and NSPS for Subcategory K of the proposed rule.

a. Regulated Pollutants. i. BPT. EPA proposes establishing BPT limitations for BOD, TSS , Oil and Grease (measured as HEM), and ammonia as N for facilities that slaughter no more than 10 million pounds per year (small facilities). EPA proposes establishing BPT limitations for BOD, TSS, Oil and Grease (measured as HEM), fecal coliform, ammonia as N, total nitrogen and total phosphorus for facilities that slaughter more than 10 million pounds per year (large facilities). These pollutants are characteristic of poultry

slaughtering wastewater. These proposed regulated pollutants are key indicators of the performance of the secondary and tertiary biological treatment process, which are the key components of the model BPT treatment systems for the small and large facilities, respectively.

ii. BAT. EPA proposes to regulate the same pollutants for BAT as those for BPT.

iii. NSPS. EPA proposes to regulate the same pollutants for NSPS as those for BAT.

b. Technology Selected. i. BPT. The Agency is proposing to establish effluent limitations based on BPT–1 for small facilities in Subcategory K. This option is based on the current practices in place at facilities as reported to EPA through the detailed surveys. Option 1 assumes a less aggressive nitrification treatment than Option 2. Based on the survey responses the Agency has reviewed to date we do not believe that there are any small poultry first processors, however, in the event that a small number of facilities exist which were not captured through EPA's survey efforts, EPA is proposing to establish BPT limits.

The Agency is proposing to establish effluent limitations based on BPT–3 for large facilities in Subcategory K. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: Equalization, dissolved air flotation and secondary biological treatment with nitrification and denitrification. As presented in Section VII.A, three BPT options were under consideration. EPA has estimated the costs and pollutant reductions associated with each technology option as it would apply to the 95 facilities that would be subject to these proposed requirements. BPT–2 removes at least 1.63 million pounds of pollutants over current discharge at an annualized cost of $4.8 million ($1999). BPT–3 removes at least an additional 5.7 million pounds of pollutants over BPT–2, at an additional annualized compliance cost of $29.7 million. BPT Option 2 results in a cost to net income ratio of 0.34%, which means that approximately 0.34% of a facility's profits would be spent on compliance if they were to implement this option. Also, the results of the BPT cost to effluent reductions benefits is $2.95 ($1999/pound). Option 3 results in a cost to net income of 2.73%, and the results of the BPT cost to effluent reduction benefits is $4.71 ($1999/pound). Thus, both of these options are considered cost-reasonable. However, since Option 3 removes more pollutants at a cost that is reasonable, BPT–3 was selected for this subcategory.

EPA also evaluated option 4 as basis for establishing BPT more stringent than the level of control being proposed today. EPA estimates that BPT–4 results in a cost to net income ratio of 3.56% and the ratio of cost to effluent reduction benefits is 5.46. However, EPA is not proposing to establish BPT limits based on BPT–4 because it determined that BPT–3 achieves nearly equivalent pollutant reductions at less cost. EPA has determined that BPT–3 would remove at least 7.32 million pounds of pollutants per year at a total annualized cost of $34.5 million ($1999). In contrast BPT–4 would remove an additional 10.7% of pollutants at an additional cost of 28%. In view of the fact that BPT–4 appears to achieve minimal additional pollutant removals and yet would prompt additional total annualized costs of $9.7 million ($1999), EPA has selected BPT–3, not BPT–4, for this Subcategory.

ii. BAT. The Agency is proposing to set BAT equal to BPT for small facilities in Subcategory K EPA was unable to determine whether or not there is an economically achievable BAT treatment technology more stringent than proposed for BPT because no small poultry first processors were identified. EPA based it's decision on the fact that there is no economically achievable BAT treatment technology more stringent than proposed for BPT for poultry further processors.

The Agency is proposing to set BAT equal to BPT for large facilities in Subcategory K because EPA has determined that there is no economically achievable BAT treatment technology more stringent than the proposed BPT treatments. Also, EPA has determined that the cost for nutrient removal for this subcategory is cost effective; it is less than the cost for nutrient removal performed at a POTW. As presented in Section VII.A, three BAT options were under consideration. BAT–2 removes approximately 810,000 pounds of phosphorus over current discharge at an annualized compliance cost of $4.8 million ($1999). BAT–3 removes an additional 7.7 million pounds of nitrogen and phosphorus over BAT–2 at an additional annualized compliance cost of $29.7 million ($1999). BAT–2 results in a cost to net income ratio of less than 0.4%, so this option is considered economically achievable. Since BAT–3 results in a cost to net income ratio of less than 2.8%, which is also economically achievable, EPA has chosen to set BAT equal to BPT for Subcategory K.

EPA also evaluated BAT–4 as a basis for establishing BAT more stringent than the level of control being proposed today. The cost to net income of more than 3.6% for BAT–4 shows that the option is economically achievable. However, EPA is not proposing to establish BAT limits based on BPT–4 because it determined that BPT–3 achieves nearly equivalent pollutant reductions at less cost. EPA has determined that BPT–3 would remove at least 8.37 million pounds of total nitrogen and total phosphorus per year at a total annualized cost of $34.5 million ($1999). In contrast BPT–4 would remove only 8.87 pounds of total nitrogen and total phosphorus at an additional cost of 28%. In view of the fact that BPT–4 achieves similar pollutant removals and yet would prompt additional total annualized costs of $9.7 million ($1999), EPA has selected BPT–3, not BPT–4, for this Subcategory. Thus, EPA has determined that BAT–3, not BAT–4 is the ''best available'' technology economically achievable for large facilities in Subcategory K.

iii. NSPS. EPA did not pursue additional, more stringent, options for small facilities in Subcategory K for NSPS because EPA does not expect the cost to construct the treatment system to achieve Option 2 performance would be significantly less for a new source than if would be for an existing source to retrofit their existing system. Therefore, EPA proposes BAT–1 as the technology basis for NSPS for small facilities in Subcategory K because EPA believes it represents the best demonstrated technology for this subcategory.

As was the case for BAT, EPA did not pursue additional, more stringent, options for large facilities in Subcategory K for NSPS because, as with existing sources, Option 4 is not expected to achieve significant incremental pollutant reductions. Further EPA does not expect the cost to construct the treatment system to achieve Option 4 performance would be significantly less for a new source than it would be for an existing source to retrofit their existing system. Therefore, EPA proposes BAT–3 as the technology basis for NSPS for large facilities in Subcategory K because EPA believes it represents the best demonstrated technology for this subcategory.

2. Poultry Further Processing Facilities (Subcategory L)

After considering all of the technology options described in Section VII.A, in light of the factors specified in Section 304(b)(2)(B) and 306 of the Clean Water Act, as appropriate, EPA proposed to select the technology options identified below as BPT, BAT, BCT and NSPS for Subcategory L of the proposed rule.

a. Regulated Pollutants. i. BPT. EPA proposes establishing BPT limitations for BOD, TSS , Oil and Grease (measured as HEM), and ammonia as N for facilities that slaughter no more than 7 million pounds per year (small facilities). EPA proposes establishing BPT limitations for BOD, TSS, Oil and Grease (measured as HEM), fecal coliform, ammonia as N, total nitrogen and total phosphorus for facilities that slaughter more than 7 million pounds per year (large facilities). These pollutants are characteristic of poultry further processing wastewater. These proposed regulated pollutants are key indicators of the performance of the secondary and tertiary biological treatment process, which are the key components of the model BPT treatment systems for the small and large facilities, respectively.

ii. BAT. EPA proposes to regulate the same pollutants for BAT as those for BPT.

iii. NSPS. EPA proposes to regulate the same pollutants for NSPS as those for BAT.

b. Technology Selected. i. BPT. The Agency is proposing to establish BPT–1 for small facilities in Subcategory L. This is the same technology as described above for Subcategoy K. EPA estimates that there are four small facilities that could be affected by these proposed requirements and these requirements could cost $2,600.

The Agency is proposing to establish BPT–3 for large facilities in Subcategory L. The treatment technologies that serve as the basis for the development of the proposed BPT limits are: equalization, dissolved air flotation and secondary biological treatment with nitrification and denitrification. As presented in Section VII.A, three BPT options were under consideration. For the sixteen facilities that would be subject to these proposed requirements EPA estimates that BPT–2 removes at least 0.09 million pounds of pollutants over current discharge at an annualized cost of $0.3 million ($1999). BPT–3 removes at least an additional 0.22 million pounds of pollutants over BPT–2, at an additional annualized compliance cost of $1.9 million. BPT Option 2 results in a cost to net income ratio of 0.39%, which means that approximately 0.39% of a facility's profits would be spent on compliance if they were to implement this option. Also, the results of the BPT cost to effluent reductions benefits is $3.28 ($1999/pound). Option 3 results in a cost to net income of 4.23%, and the results of the BPT cost to effluent reduction benefits is $7.11 ($1999/pound). Thus, both of these options are considered cost-reasonable. However, since Option 3 removes more pollutants at a cost that is reasonable, BPT–3 was selected for this subcategory.

EPA also evaluated option 4 as basis for establishing BPT more stringent than the level of control being proposed today. EPA estimates that BPT–4 results in a cost to net income ratio of 6.04% and the ratio of cost to effluent reduction benefits is 9.54. EPA is not proposing to establish BPT limits based on BPT–4 because it determined that BPT–3 achieves nearly equivalent pollutant reductions at less cost. EPA has determined that BPT–3 would remove at least 0.31 million pounds of pollutants per year at a total annualized cost of $2.2 million ($1999). In contrast BPT–4 would remove at least 0.32 million pounds of pollutants at an additional cost of 36%. In view of the fact that BPT–4 appears to achieve less pollutant removals and yet would prompt additional total annualized costs of $1.9 million ($1999), EPA has selected BPT–3, not BPT–4, for this Subcategory.

ii. BAT. The Agency is proposing to set BAT equal to BPT for small facilities in Subcategory L because EPA has determined that there is no economically achievable BAT treatment technology more stringent than the proposed BPT treatment. BAT–2 results in a cost to net income ratio of greater than 20%, which would cause significant economic impacts for these facilities, so EPA has chosen to set BAT equal to BPT for small facilities in Subcategory L.

The Agency is proposing to establish effluent limitations based on BAT–3 for large facilities in Subcategory L. The treatment technologies that serve as the basis for the development of the proposed BAT limits are: equalization, dissolved air flotation and secondary biological treatment with nitrification and denitrification. EPA has determined that there is no economically achievable BAT treatment technology more stringent than the proposed BPT treatment. As presented in Section VII.A, three BAT options were under consideration. BAT–2 removes approximately zero pounds of phosphorus over current discharge at an annualized compliance cost of $0.3 million ($1999). BAT–3 removes an additional 0.32 million pounds of nitrogen and phosphorus over BAT–2 at an additional annualized compliance cost of $1.9 million ($1999). BAT–2 results in a cost to net income ratio of less than 0.4%, so this option is considered economically achievable. BAT–3 results in a cost to net income ratio of less than 4.25%, which is also economically achievable, so EPA has chosen to set BAT equal to BPT for Subcategory L.

EPA also evaluated BAT–4 as a basis for establishing BAT more stringent than the level of control being proposed today. The cost to net income of more than 6% for BAT–4 shows that the option would cause significant economic impacts. Also, EPA is not proposing to establish BAT limits based on BPT–4 because it determined that BAT–3 achieves nearly equivalent pollutant reductions at less cost. EPA has determined that BAT–3 would remove at least 0.32 million pounds of total nitrogen and total phosphorus per year at a total annualized cost of $2.2 million ($1999). In contrast BPT–4 would remove only 0.318 pounds of total nitrogen and total phosphorus at an additional cost of 36%. In view of the fact that BPT–4 appears to achieve reduced pollutant removals and yet would prompt additional total annualized costs of $0.8 million ($1999), EPA has selected BPT–3, not BPT–4, for this Subcategory. Thus, EPA has determined that BAT–3, not BAT–4 is the ''best available'' technology economically achievable for large facilities in Subcategory L.

iii. NSPS. EPA did not pursue additional, more stringent, options for small facilities in Subcategory L for NSPS because EPA does not expect the cost to construct the treatment system to achieve Option 2 performance would be significantly less for a new source than if would be for an existing source to retrofit their existing system. Therefore, EPA proposes BAT–1 as the technology basis for NSPS for small facilities in Subcategory L because EPA believes it represents the best demonstrated technology for this subcategory.

The treatment technologies that serve as the basis for the development of the proposed NSPS limits are the same as the BAT for this subcategory. As was the case for BAT, EPA did not pursue additional, more stringent, options for NSPS because, as with existing sources, Option 4 is not expected to achieve significant incremental pollutant reductions. Further, EPA does not expect the cost to construct the treatment system to achieve Option 4 performance would be significantly less for a new source than it would be for and existing source to retrofit their system. Therefore, EPA proposes BAT–3 as the technology basis for NSPS for subcategory L because EPA believes it represents the best demonstrated technology for this subcategory.

F. Regulatory Alternatives for Meat and Poultry Products Industry

EPA is soliciting comment on alternative approaches that the Agency is considering for the meat and poultry products industry. EPA primarily considered these approaches as alternatives to potential numeric pretreatment standards before the Agency determined that it did not have enough information necessary to establish categorical pretreatment standards for this industry (*see* Section XI.B). The purpose of any alternative would be to help facilities in this industry comply with regulations or foster voluntary adoption of environmental management systems that could help organizations reduce environmental impacts from unregulated activities through pollution prevention and other approaches. Specifically, the Agency is considering the following two options.

Under the first option, EPA would not issue pretreatment standards for indirect dischargers in the final rule. Rather, EPA would work with the industry to develop and implement voluntary environmental management systems (EMSs). In a few years, EPA would plan to evaluate the performance of the voluntary program and either conclude that the voluntary program is sufficient, revisit the issue of pretreatment standards for indirect dischargers, and/or consider other appropriate steps.

Under the second option, EPA would promulgate pretreatment standards for non-small indirect dischargers. However, indirect dischargers would also receive the option of meeting regulatory obligations by implementing EMSs that include environmental audit programs (EAPs). Each of these options is discussed below.

EPA is also considering whether an EMS-based compliance alternative similar to the second option could be applied also to direct dischargers. This option is also discussed further below.

1. Application of Regulatory or EMS Alternatives to Meat and Poultry Processors

EPA believes these EMS-based alternatives would be attractive to many meat and poultry processors that discharge wastewater to Publicly Owned Treatment Works (POTWs) if EPA establishes categorical pretreatment standards. The majority of the meat and poultry products facilities are discharging wastewater indirectly through POTWs and besides the use of Dissolved Air Flotation (DAF) or other types of oil and grease treatment and equalization, few of these facilities reported having any significant amount of wastewater treatment to reduce nutrient pollutants. Although the Agency is not proposing to establish nutrient standards for indirect dischargers, the Agency believes that a significant reduction of nutrients can be achieved through the implementation of an EMS or an EAP and the implementation of specific BMPs. Each of these (EMS, EAP and specific BMPs) will be described in more detail in subsequent discussions. Implementation of an EMS or EAP by meat and poultry products facilities could also result in a range of other environmental benefits (*e.g.,* reduced odor, noise, energy and or water consumption). Given the potential benefits of an EMS, EPA is considering an approach in which no pretreatment standards would be developed for meat and poultry products indirect dischargers rather, EPA would initiate an expanded program to work in partnerships with meat industry facilities, organizations, and other interested parties to promote the adoption and implementation of EMSs by these facilities. EPA would develop guidance on how to develop EMSs for meat and poultry product indirect dischargers and then work with our partners at the State Permitting and Control Authorities to inform them and the meat and poultry processors about the potential benefits of implementing an EMS. EPA would monitor actions toward the development of EMSs by meat and poultry processors and evaluate the improvements to water quality and the environment that result. Not later than five years after promulgation of this regulation, EPA would issue a report providing a comprehensive evaluation of the EMS initiative. The EMS or EAP alternatives EPA is considering would allow indirect dischargers the opportunity to avoid installing wastewater treatment and could, therefore, be less costly.

EPA notes that allowing operators the use of an EMS to demonstrate compliance with potential pretreatment standards assumes that the POTW or the controlling authority is knowledgeable and available. EPA also notes that the MPP indirect dischargers of greatest concern are frequently in smaller communities where the POTW typically operates without an approved pretreatment program or the POTW is typically a small-scale operation. EPA solicits comment on whether these rural or small POTW operations are in a position to adequately assess compliance with the EMS regulatory option and to effectively respond to significant deficiencies. EPA also solicits comment on whether the burden for ensuring compliance with this EMS regulatory alternative would fall on the States or EPA Regions as control authorities and whether such evaluations would be much more difficult to perform on a national basis than a numeric standard. EPA also solicits comment on what requirements can prevent facilities, which use the EMS regulatory alternative and still cause pass through or interference at a POTW, from causing such pass through or interference again. EPA also solicits comments on implementation of a voluntary EMS, perhaps as part of the Performance Partnership (see below).

EPA also solicits comment on how this compliance alternative can be applied to direct dischargers. Most direct dischargers have already installed wastewater treatment to comply with their NPDES Permits. Depending on the effectiveness of the BMPs, EPA may consider offering reduced requirements for monitoring wastewater requirements for direct dischargers which implement an EMS. This could include reduction in the frequency of monitoring, or monitoring for a reduced list of specific pollutants. EPA solicits comments on how an EMS compliance alternative could be applied to direct dischargers and whether EPA should consider this as a compliance alternative for direct dischargers.

2. Performance Improvement Partnership With the Meat and Poultry Processing Industry

In parallel with the development of the MPP ELGS proposal, EPA is working in partnership with the meat and poultry processing industry, State and local government agencies, USDA, and other stakeholders to promote improved environmental performance in the meat and poultry products industry. This partnership has been developed under the Agency's Sustainable Industries Partnership Program. Through the Sustainable Industries program, part of the Agency's overall innovations agenda, EPA works with selected industry sectors to voluntarily set industry-wide performance improvement objectives, develop the right tools and incentives to beneficially affect facility performance, address sector-specific regulatory reform needs, and measure results.

The voluntary partnership program for the meat and poultry processing industry is still under development as of the date of this proposed rule. The purpose of the program is to bring environmental improvements that will benefit meat and poultry processing facilities and their surrounding

communities while maintaining extremely high levels of food safety. The program has industry-generated performance objectives, plus four project elements that were identified as important actions to assist and promote better environmental performance by meat and poultry processing facilities and others.

Participants in developing this program include the American Meat Institute (AMI), the American Association of Meat Processors (AAMP), the U.S. Department of Agriculture (USDA), several State agencies, EPA programs and regions, and other interested constituent groups. Combined, the AMI and AAMP membership totals approximately 2,500 members and represents more than 75% of the total production volume for the meat and poultry processing industry.

Although the elements of the voluntary partnership are under development, AMI and AAMP have stated their commitment to the pursuit of continuous environmental improvement and compliance with environmental regulations at the facility level and in the industry at large. Elements of this commitment may include the following, performance-related actions:

(1) To work in partnership with Federal and State government agencies to promote nationwide industry compliance;

(2) To expand education on best practices, including the promotion of appropriate environmental management systems (EMS);

(3) To reduce environmental impacts, including wastewater discharges and solid waste, associated with facility operations;

(4) To work with suppliers and customers to identify and promote pollution prevention practices to achieve cleaner production and reduced waste;

(5) To develop guidance for communicating with employees, suppliers, customers, and the public about the environmental impacts of the industry; and

(6) To conserve and protect natural resources.

In support of the voluntary performance objectives, the Meat and Poultry Processing Partnership Program includes a set of four projects, currently underway, that will help to enable the meat industry as a whole to achieve the voluntary performance objectives. The projects are described briefly.

a. Environmental Management System (EMS). Program partners drafted guidance materials and a training program for the meat industry to broadly implement corporate/facility-appropriate EMSs. The project team has drafted an EMS Guide for the Meat and Poultry Processing Industry, on the plan-do-check-act continuous improvement model. This EMS Guide consists of 10 modules covering policy, planning, implementation and operation, checking and corrective action, and management review.

This voluntary EMS tailored for meat and poultry processors can be used by both small and large meat and poultry processors to implement an EMS. Currently, EPA is partnering with the Iowa Waste Reduction Center (IWRC) and the Iowa Department of Natural Resources (IDNR) to pilot test the Guide with five companies. IWRC and IDNR are providing technical assistance and implementation consulting to the five companies. The pilot will be completed in July 2002 and then EPA will evaluate the pilot and incorporate lessons learned into the final draft of the EMS Guide for Meat and Poultry Processors. The final guide is expected to be completed by September 2002, at which point this tool will be widely marketed throughout the meat and poultry processing industry with the direct involvement of the industry's two major trade groups.

This EMS project is strictly a voluntary approach that is part of the larger partnership program with the meat and poultry processing industry. The project is designed to develop and market a tool tailored to the needs of this specific industry, to be used by the industry itself to promote improved performance by individual facilities. The Agency is also seeking comment on the option of using a standardized EMS as a stand-alone alternative to the setting of national numeric pretreatment standards (*see* Section XI.B).

b. Customer-oriented'' compliance assistance tools. Program partners are developing tools to assist meat and poultry processors in maintaining compliance with Federal, State and local environmental requirements. Many meat and poultry processors have indicated that they have difficulty in keeping up with the many environmental regulations surrounding their facilities. Currently, the project team is developing a custom checklist of regulatory requirements, designed specifically for meat and poultry processing facilities. Guidance is also being developed to help small processors dispose of solid waste and biosolids.

The Office of Compliance in EPA's Office of Enforcement and Compliance Assurance, in partnership with industry, academic institutions, environmental groups, and other Federal and State agencies, has established a ''virtual'' (web-based) national Compliance Assistance Center known as the National Agriculture Compliance Assistance Center (Ag Center: *http://es.epa.gov/oeca/ag/*). The Ag Center offers comprehensive, easy-to-understand information on environmentally protective and agriculturally sound approaches to compliance. EPA will use the Ag Center as one of its tools for publicizing the final Effluent Limitation Guideline and related voluntary approaches.

c. External stewardship program with livestock suppliers. Nutrient management by livestock producers is the most important environmental issue facing the overall industry. EPA is developing a replicable external stewardship program for meat and poultry processors to work with their suppliers on pilot projects to test and measure the impact of environmental best management practices (BMPs), with a focus on nutrient management. Project teams in Iowa and other midwest States are working to design and voluntarily implement BMPs and nutrient management plans for livestock producers, building on existing processor-supplier relationships. The goal of this project is to demonstrate that voluntary environmental stewardship by livestock producers can be defined, documented, measured, and progress achieved. Project results will help demonstrate whether voluntary programs can be used to augment existing regulations and eliminate the need for expanded regulatory actions.

d. Best management practice tools. Reducing, chloride, nitrogen and phosphorus pollutants in meat and poultry processing wastewater while maintaining high food quality standards poses a challenge to many meat and poultry processors. In addition, the disposal of meat and poultry processing biosolids and renderable materials such as offal poses a serious threat to the economic viability of small meat and poultry processors. To address these environmental impacts through non-regulatory means, EPA and its partners are developing BMP guidance materials for handling and disposal of rendering materials, and for chloride, nitrogen, and phosphorus discharges. The project team will evaluate these management practices and develop measures of their effectiveness. Long-term deployment of the final tools will occur through the active leadership of the industry's trade associations.

The Meat and Poultry Processing Partnership Program is intended to help improve the environmental performance

of meat and poultry processors across the entire industry and, in the case of the external stewardship project, the performance of livestock suppliers as well. This innovative, non-regulatory program has the potential to affect the practices of all 6,000-plus meat and poultry products facilities, thereby fostering environmental improvement among facilities that are excluded from the proposed ELGS standards. In that regard, it is a reflection of EPA's commitment, along with its partners, to achieve continuous performance improvement and environmental stewardship on an industry-wide scale, above and beyond what is intended to be accomplished with this rule.

This voluntary program was not intended, when designed, specifically as a regulatory alternative to the proposed ELGS, but rather as a complement to the proposed standards. Nevertheless, EPA solicits public comment on whether this program would be an adequate replacement for any potential national numeric pretreatment standards and, if so, whether specific program modifications or enhancements should be adopted in response to the issues discussed in this preamble. That determination would be based, in part, on results that are yet to be achieved by the voluntary partnership. EPA and its partners therefore will evaluate and share publicly the environmental results achieved to date, and during the time period preceding promulgation of the final rule, by the meat and poultry processing industry through its participation in this program, to help determine whether this voluntary performance-based approach should be considered a viable alternative to national numeric pretreatment standards. Information is available at *www.SectorStar.org.*

3. Environmental Management Systems (EMSs)

A simple definition of an EMS is ''a continual cycle of planning, implementing, reviewing, and improving the actions an organization takes to meet its environmental obligations.'' These obligations include, but are in no way limited to regulated activities. EMSs are a potentially powerful tool to reduce the range of environmental impacts that may not be amenable to regulation (e.g., odor, noise, energy consumption, or water consumption). In conjunction with reducing environmental impacts, EMSs offer other benefits including cost savings, increased operational efficiency, risk reduction, improved internal communication, and improved relations with external parties.

The use of environmental management systems is increasing throughout the world, especially since the publication of the ISO 14001 International EMS Standard in 1996. ISO standards are developed by an International Body with the goal of establishing standardized product goals. ISO 14001 established a standardized procedure for developing Environmental Management Systems. Approximately 16,000 organizations, including approximately 1,500 organizations in the U.S. have adopted EMSs based on ISO 14001, including certification to the standard through independent third party audits, and the rate of adoption is increasing rapidly. A much larger number of organizations have adopted EMSs consistent with the overall approach embodied in ISO 14001, but tailored to their own particular operations. Implementation of an EMS, while it has the potential to enhance compliance with regulatory requirements, does not expressly constitute or ensure compliance with legal requirements. Compliance assurance, however, is an express public policy and regulatory goal.

In addition, concerns have been expressed that ISO 14001 may not be appropriate for certain industries or certain small and medium-sized organizations. Several industry groups have developed, or are in the process of developing, voluntary programs which use EMSs. These include, but are not limited to, egg production, biosolids management, and water/wastewater utilities. Other industry groups, such as the American Chemical Council (formerly the Chemical Manufacturer's Association), have had similar programs in place for a number of years.

EPA has been involved in strategically promoting the voluntary adoption of EMSs for several years. The Agency's policy in this area was clearly described in our 1999 Report entitled ''Aiming for Excellence''. This report states that ''we will encourage organizations to use EMSs that improve compliance, pollution prevention, and other measures of environmental performance''. Copies of this report are available at *www.epa.gov/reinvent/taskforce/report99.* EPA has also developed an action plan that identifies a wide range of activities the Agency is or expects to undertake to follow up on the recommendations of the Aiming for Excellence Report dealing with EMSs.

Some of the key EMS-based programs EPA is supporting, in partnership with industry and others, are the National Environmental Performance Track (NEPT), the United Egg Producers XL Project, and the National Biosolids Partnership EMS program. As described previously under the Sustainable Industries Programs, EPA is partnering with IWRC and IDNR and five meat and poultry companies to pilot test the ''EMS Guide for the Meat and Poultry Processing Industry.''

Contents of an EMS

The factors described in more detail below would be included in EMSs developed voluntarily under the alternative being considered by the Agency:

Environmental Policy—a written statement of policy, defined by top facility management that includes commitments to: Compliance with both legal requirements and voluntary commitments; pollution prevention, and continual improvement of environmental performance in order to reduce negative impacts on the environment over time; involving the public in an appropriate fashion in EMS development and implementation, and sharing information about environmental performance of the EMS with the community and sharing information about environmental performance of the EMS with the public.

Environmental Planning—identify and document all environmental aspects and impacts of the facility and determine which of these are most significant.

- Document both applicable environmental legal requirements and voluntary commitments.
- Set and document measurable objectives and measurable targets to meet policy commitments and legal requirements and to reduce the facility's significant environmental impacts.
- Describe and document programs to achieve the objectives, targets and commitments in the EMS, including the means and time frames for their completion.

Implementation of Policy and Plan—The following actions provide mechanisms for implementing and maintaining the EMS policy and plan.

- Establish roles and responsibilities for meeting objectives and targets of the overall EMS and compliance with legal requirements, including a top management representative with authority and responsibility for the EMS.
- Define procedures for: (1) Communicating relevant information regarding the EMS, including the facility's environmental performance, throughout the organization; (2) providing appropriate incentives for personnel to meet the EMS requirements; and (3) document and

record control, including where documents related to the EMS will be located and who will maintain them.

• Provide for general environmental training programs for all employees, and specific training for those whose jobs and responsibilities involve activities directly related to achieving objectives and targets and to compliance with legal requirements.

• Establish operation and maintenance programs for equipment and for other operations that are related to legal compliance and other significant environmental aspects.

• Develop a documented emergency preparedness and response program.

Community Involvement/External Communications—The following actions provide mechanisms for incorporating community involvement and external communications.

• Ensure that interested community members and others are given the opportunity to provide input to the facility as it sets objectives and targets in its EMS

• Maintain regular communications with these stakeholders on the performance of the EMS as it is implemented and address relevant issues raised by these stakeholders.

• Report publicly on EMS performance by, for example, making information from self and third party audits available to the public. EPA solicits comment on the most appropriate method of sharing the audit results, including website publication, as well as their content and frequency.

Corrective Action—The following actions provide mechanisms for identifying and correcting operation controls and procedures to ensure EMS effectiveness.

• Adoption of necessary operational controls and procedures to ensure that the EMS is effectively implemented.

• Implementation of an active program for assessing performance and preventing and detecting non-conformance with legal and other requirements (including regulatory compliance) of the EMS

• Maintain records that document EMS implementation and compliance

Management Review—Operators should document management review of performance against the established objectives and targets and the effectiveness of the EMS in meeting policy commitments.

Environmental Management System and Audit Program

As discussed earlier in this proposal, EPA is interested in considering the possible use of EMSs in various aspects of its relationships with the meat and poultry processing industry. EMSs can provide significant internal benefits to organizations such as improved internal communication and better integration of environmental considerations into business decisions. However, EPA is also interested in considering whether EMSs could serve as method of promoting overall environmental accountability to ensure real pollution reductions external. One potential method of ensuring greater accountability and confidence is to include independent third party auditing as a component of an EMS program. Third party auditing is designed to provide facilities with an independent evaluation of their EMSs, based on a particular set of EMS elements or standards.

While third party EMS audits are primarily designed to evaluate the overall suitability of a management *system,* as opposed to particular metrics related to regulatory compliance or environmental performance, they do examine how and if an organization is meeting the environmental objectives it has set for its own operations, including compliance and reduced impacts from unregulated activities.

Therefore, EPA is also considering establishing in the final regulation an option that would allow the meat and poultry products industry to develop an Environmental Management System (EMS) program that would also include independent third party audits by a qualified organization. Indirect dischargers would have the option of meeting potential pretreatment standards or agreeing to participate in the EMS/Audit Program. Third party auditing could substitute for a review by the control authority. Facilities participating in the program would develop EMSs with the elements described above.

Eligibility Criteria

EPA could offer the EMS regulatory alternative to all facilities. Alternatively, EPA could limit the alternative's availability to facilities meeting certain criteria. EPA solicits comment on eligibility criteria for determining whether facilities should be allowed to adopt EMSs in lieu of installing otherwise required wastewater treatment. The purpose of the criteria would be to screen the facilities to ensure they can demonstrate an appropriate compliance history and commitment. For example, EPA could specify in the final rule that if the facility has had a particular type of violation within a certain number of years (e.g., five) the owner/operator would have to demonstrate that the violation was corrected and steps taken to prevent recurrence. EPA may also wish to specify that persons whose compliance history includes certain types of serious violations (e.g., criminal violations) must comply with numeric effluent limits. The regulatory authority may be in the best position to determine at the outset whether a facility's compliance history should exclude it from participation. EPA solicits comments on whether all facilities should be allowed to participate or on other potentially appropriate criteria, as well as on the timing of the screening. EPA also wants to know whether the regulatory authority has the time and resources to research these facilities and whether the need for the review merits the resources required.

Frequency of Third Party Auditing

EPA is considering requiring facilities to complete an initial and follow up audits in the range from each year to every three years, but solicits comment on other frequencies. EPA is also seeking comment on whether a facility's internal audit might substitute for a third party audit in certain years if the previous third party audit indicated that the facility was making good progress on implementing its EMS. EPA also solicits comment on how to define 'making good progress' in such situations. Finally, at some point, each facility would need to complete a full reaudit of its environmental management plan by an independent third party. EPA solicits comment on the frequency of these full reaudits.

Qualifications of Third Party Auditors

For any third party EMS auditing program to be successful, all parties must have confidence in the individuals conducting the audits. Under this proposal, third party auditors could be certified by EPA or another organization as lead auditors under the relevant ISO guidelines with sufficient additional experience in the field of food safety or wastewater management to enable the auditors to, among other things, competently assess facility conformance with objectives and requirements and applicable BMPs. A similar approach is being used in the biosolids industry, where third party auditors must hold credentials as an ISO 14001 lead auditor *and* have a minimum of 5 years experience in biosolids and wastewater management.

Alternatively, EPA could develop a separate set of qualifications for auditors. We are seeking comment on the relevant qualifications for third party auditors and suggestions for existing organizations that might be in

a position to manage an auditing program.

Content of Audit Reports and Sharing of Information

Third party audit information is essential to maintain ongoing communications with the community and other key stakeholders. However, EPA recognizes the burden that providing this information may pose to individual facilities. EPA also recognizes that some of the information in the audit may be considered CBI by the facility. Therefore, we are seeking comment on the most efficient way to make this information available to the public and on what limits if any should be placed on this information. For example, the information could be made available through the web site of the control authority or State regulatory agency, as opposed to requiring the facility to make it available. The content of this information is also an important consideration. EPA proposes to limit the scope of this information to information derived from the EMS audit, including that which relates to the BMPs designed to control pollutants discharged in wastewater, and not necessarily information about all aspects of facility operations. Some of the information that is contained in actual audit reports may be of little interest to the community. In contrast, information that focuses on the areas of strength and needed improvement as a result of the audit may be quite useful. EPA solicits comment on the specific information from audits that should be publicly available as well as the most efficient and effective way of accomplishing this.

Ensuring Auditor Consistency and Integrity

Ensuring that auditors perform their duties in a consistent and objective manner is essential. A May 2001 National Academy of Public Administrators (NAPA) report on third party auditing of EMS under ISO 14001, for example, noted that, given public policy implications, it is important to ensure credible and consistent results so that all who rely on the EMSs, including the public, have appropriate expectations of what it represents (Docket No. W–01–06, Record No. 10041). EPA believes there should be a mechanism for periodically evaluating the effectiveness of the third party audit program and considering appeals to auditor decisions. The Agency solicits comment on how this can best be accomplished and the roles that various parties, including States, should play.

Correction of Nonconformance/Return to Regulatory Coverage

EPA assumes that facilities wishing to take advantage of this alternative will make a good faith effort to successfully implement their environmental management programs. However, some facilities will inevitably experience serious nonconformance, potentially including noncompliance with meeting the goals of the EMS including BMPs to control pollutant discharges. Such problems can range from minor deficiencies with implementation of environmental management programs that have minimal environmental impact and can be easily corrected to serious problems which lead to imminent and substantial endangerments, have significant environmental impacts, or reflect criminal conduct.

EPA's intent is to balance the need to provide facilities with incentives to seek the third party alternative described in this proposal with the need to ensure that regulatory authorities can react promptly and effectively to serious problems that may result in a facility being returned to regulatory coverage. There are a number of options EPA could consider to address this issue. These are not mutually exclusive and include (1) allowing facilities with minor audit nonconformance and/or noncompliance to correct these problems in lieu of returning to regulatory coverage, (2) requiring facilities with major nonconformance and/or noncompliance to address the issue within a specified period of time and have the corrective action reviewed by the auditor or regulatory agency, or (3) requiring that any major noncompliance with the EMS result in a return to regulatory coverage. EPA solicits comment on the best approach or combination of approaches from those listed above or any other approach for addressing nonconformance and noncompliance with regulatory requirements, including, for example, determining who is responsible for noncompliance when there are actual discharges, and when such discharges will be treated as violations of the Clean Water Act. EPA also solicits comment on whether, when, and how related information should be shared with the public.

Reporting and Recordkeeping

To assure compliance with regulatory alternatives to numerical effluent limits, EPA believes it must be able to monitor EMS/EAP implementation and performance. EPA's preferred approach would be to maintain records on-site for 3 years. EPA solicits comment on types of records and reports that might be appropriate for this purpose and where and how long they would be maintained, including their availability to regulators and/or the public.

Best Management Practices

Both the EMS and EAP alternative approaches include commitments to meeting effluent standards through treatment or commitments to implementation of BMPs. EPA has identified several BMPs that are believed to be effective at reducing the pollutant loads discharged in process wastewater from meat and poultry products facilities. Implementation of these BMPs would be a mandatory component of the EAP when it serves as a compliance alternative to potential pretreatment standards. The BMPs that are described below are currently being used at meat and poultry processing facilities and were identified by industry representatives as having the greatest potential to reduce nutrient pollutants from the effluent at meat and poultry processing facilities.

Many of these best management practices simply prevent raw materials or by-products from coming in contact with wastewater, thus reducing the pollutant load which reaches the water stream. All meat and poultry processing and rendering facilities must use water to clean their equipment and facilities to maintain a clean, hygienic environment and keep food safe from bacterial contamination. Prior to the disinfecting water cleaning, collecting as much of the solid by-products that may have accumulated around work areas will reduce the pollutants that reach water. Many of these by-products have value as rendered product and, thus, should not become a solid waste requiring disposal to land.

EPA believes that preventing solid raw materials and byproducts such as offal from entering the wastewater stream has the potential to greatly reduce the loading of nitrogen that is discharged from meat and poultry products facilities. The nitrogen is still in organic form and does not have the opportunity to begin the biochemical breakdown that occurs in wastewater which releases ammonia. Once the nitrogen has been converted to ammonia it is much more difficult to remove from the wastewater stream. Likewise phosphorus loadings in wastewater should also be reduced when solid materials are kept out of the wastewater.

The implementation of some of the BMPs described herein may require reconfiguring equipment or work areas within the facility to facilitate dry clean-

up methods. These reconfigurations can probably be done over time as there will be some trade-off between labor requirements necessary to conduct the dry clean-up in the more difficult areas and the costs associated with retrofitting these areas with equipment that facilitates this dry clean-up. However, as a compliance alternative to potential pretreatment standards, the regulation would specify that the facility operator must be able to demonstrate implementation of the required BMPs in order to be eligible for this EAP alternative.

Some of the BMPs identified by EPA are specific to a particular aspect of the production, such as slaughtering. Slaughtering facilities can accomplish reductions in the nutrient pollutants discharged by maximizing blood collection and using dry clean-up techniques prior to sanitation. Dry collection and handling of other offal and by-products are also effective practices. Some meat and poultry processing facilities use water to transport offal and other by-products away from the processing area either to the on-site rendering facility or to trucks for transport to an off-site renderer. This can result in loss of these by-products when the material is separated from the wastewater and promote chemical break down of these by-products which converts organic nitrogen to water soluble ammonia.

Manure management can also be a consideration at slaughter facilities. Facilities should ensure that manure is properly handled and when possible handled as a solid waste rather than adding it to the facilities wastewater stream. Practices would include dry cleaning of pens and trucks prior to wet cleaning and sanitizing. In addition, there may be pollution prevention practices that can be implemented in association with manure management involving removing the animals from feed at some point prior to shipping them to the slaughterhouse.

Facilities that do not slaughter animals, but do further processing of meat and poultry products should also maximize the use of dry collection and cleaning of the facilities prior to sanitation. There are also concerns with some of the specific processes such as pickling, spicing and marinating which are used to make meat and poultry products. These processes involve preparing a solution containing salts, sugars, phosphates and nitrites among other things. These solutions should be managed to minimize waste and loss. Some of the practices that EPA is considering include using multiple, smaller batches of these solutions to reduce the volume and pollutant loads when a batch requires disposal. These practices include collection, screening, and reuse of spent pickle from injection or tumbler machines. EPA is also considering ways that the product could be removed and packaged following this process in such a way as to minimize the loss of the solution. Facilities would also be asked to develop a protocol for determining when a solution requires disposal to maximize the usefulness of these solutions and reduce the overall volume disposed. Facilities should also examine and maintain the equipment used in these processes to minimize spills and leaks.

Finally, specific best management practices that are being considered for the rendering sector include managing the raw materials to prevent leaks and spills especially for materials that may be entering the rendering facility as a liquid such as blood or oil and grease. Losses of rendered product following the cooking process should be avoided by providing and maintaining traps in the cooking vapor lines and controlling pressure reduction and agitation after cooking.

All meat and poultry products facilities should minimize water usage and employ water conservation practices including installing operator controlled nozzles on hoses and other sources of water. Facilities should also examine the chemicals used to sanitize equipment. Whenever possible the use of sanitizers containing phosphorus should be avoided.

EPA will continue to evaluate these management practices and work with stakeholders to identify measures, monitoring or recordkeeping that EPA could use to ensure the proper implementation of these BMPs. EPA expects to fully describe these measures in a subsequent notice and seek public comment on them.

Assessment of Alternatives

To assess the extent to which an EMS or an EAP alternative can achieve comparable pollutant reduction performance as the end-of-pipe effluent standard, EPA needs data which document the pollutant reductions achieved by implementing the BMPs. The specific performance data that EPA is seeking includes effluent concentrations taken from wastewater discharges prior to and after implementing the BMPs for nutrient pollutants. The nutrient pollutants should be analyzed using EPA's approved methods, found at 40 CFR part 136 for Total Kjeldahl Nitrogen (TKN), Ammonia, Nitrates, Dissolved Phosphorus and Total Phosphorus. EPA also solicits concentration information on Hexane Extractable Material which measures oil and grease (HEM method for oil and grease), 5-day Biochemical Oxygen Demand (BOD_5), Biochemical Oxygen Demand and Total Suspended Solids (TSS). In addition to the concentration information, EPA needs to know the production practices, the wastewater flow and production rates associated with the concentration measurements. The longer the time period during which data is collected both before and after implementation of BMPs the more helpful the data will be to EPA.

EPA will also need to evaluate the costs associated with implementing the BMPs and the EMS or EAP to determine whether they are comparable to costs estimated for compliance with today's wastewater treatment that are being considered for possible pretreatment standards. EPA encourages the industry and the public to provide information on the costs associated with implementing an EMS or EAP, including costs to hire consultants and staff time necessary to develop and implement an EMS or EAP. EPA has included some cost and estimates of labor requirements for the implementation of EMS that were provided to EPA and reflect the implementation of EMSs to manage biosolids. EPA is also interested in data that documents materials necessary to implement the BMPs. Facilities are asked to also provide data which documents cost savings such as reduced water usage resulting in lower water bills.

EPA would also welcome any data on the actual performance of EMSs. This could include data that demonstrates other environmental benefits associated with implementing EMSs or EAPs such as reductions in energy or water usage, improvements in food safety or reductions in odor or air emissions, or data on EMS limitations. EPA is also interested in knowing about other BMPs that would be as effective as those identified in today's notice.

In summary, EPA is soliciting comment on a variety of alternative approaches that can be implemented in the meat and poultry products industry to beneficially affect industry-wide and facility performance and measure results. Through the Sustainable Industries Program, stakeholders will identify and test the best methodologies and approaches to collecting information and data to measure environmental results of various voluntary concepts (i.e. BMP's, EAP's and EMS). This effort will begin during the initial period immediately following

proposal of this regulation. The results and an evaluation of various alternative approaches will be included in a subsequent Notice of Data Availability (NODA), which will also describe in detail an alternative approach and solicit comment.

XII. Regulatory Implementation

A. Implementation of Part 432 Through the NPDES Permit Program and the National Pretreatment Program

Under sections 301, 304, 306 and 307 of the CWA, EPA promulgates national effluent limitations guidelines and standards of performance for major industrial categories for three classes of pollutants: (1) Conventional pollutants (i.e., total suspended solids, oil and grease, biochemical oxygen demand, fecal coliform, and pH); (2) toxic pollutants (e.g., toxic metals such as chromium, lead, nickel, and zinc; toxic organic pollutants such as benzene, benzo-a-pyrene, and naphthalene); and (3) non-conventional pollutants (e.g., ammonia-N, fluoride, iron, total phenols, and 2,3,7,8–tetrachlorodibenzofuran).

As discussed in Section II, EPA considers development of six types of effluent limitations guidelines and standards for each major industrial category, as appropriate:

Abbreviation/Effluent Limitation Guideline or Standard

BPT—Best Practicable Control Technology Currently Available
BAT—Best Available Technology Economically Achievable
BCT—Best Control Technology for Conventional Pollutants
NSPS—New Source Performance Standards
PSES—Pretreatment Standards for Existing Sources
PSNS—Pretreatment Standards for New Sources

Pretreatment standards apply to industrial facilities with wastewater discharges to POTWs. The effluent limitations guidelines and new source performance standards apply to industrial facilities with direct discharges to navigable waters.

1. NPDES Permit Program

Section 402 of the CWA establishes the National Pollutant Discharge Elimination System (NPDES) permit program. The NPDES permit program is designed to limit the discharge of pollutants into navigable waters of the United States through a combination of various requirements including technology-based and water quality-based effluent limitations. This proposed regulation contains the technology-based effluent limitations guidelines and standards applicable to the meat and poultry processing industry to be used by permit writers to derive NPDES permit technology-based effluent limitations. Water quality-based effluent limitations (WQBELs) are based on receiving water characteristics and ambient water quality standards, including designated water uses. They are derived independently from the technology-based effluent limitations set out in this proposed regulation. The CWA requires that NPDES permits must contain for a given discharge, the more stringent of the applicable technology-based and water quality-based effluent limitations.

Section 402(a)(1) of the CWA provides that in the absence of promulgated effluent limitations guidelines or standards, the Administrator, or her designee, may establish technology-based effluent limitations for specific dischargers on a case-by-case basis. Federal NPDES permit regulations provide that these limits may be established using ''best professional judgment'' (BPJ) taking into account any proposed effluent limitations guidelines and standards and other relevant scientific, technical and economic information.

Section 301 of the CWA, as amended by the Water Quality Act of 1987, requires that BAT effluent limitations for toxic pollutants are to have been achieved as expeditiously as possible, but not later than three years from date of promulgation of such limitations and in no case later than March 31, 1989. See 301(b)(2). Because the proposed revisions to 40 CFR part 432 will be promulgated after March 31, 1989, NPDES permit effluent limitations based on the revised effluent limitations guidelines must be included in the next NPDES permit issued after promulgation of the regulation and the permit must require immediate compliance.

2. New Source Performance Standards

New sources must comply with the new source performance standards and limitations of the MPP rule (once it is finalized) at the time they commence discharging MPP process wastewater. Because the final rule is not expected within 120 days of the proposed rule, the Agency considers a discharger a new source if construction of the source begins after promulgation of the final rule (40 CFR 122.2; 40 CFR 403.3). EPA expects to take final action on this proposal in December 2003.

However, the currently codified NSPS continue to have force and effect for a limited universe of new sources. Specifically, following promulgation of any revised NSPS, the existing NSPS would continue to apply for a limited period of time to new sources that commenced discharging MPP process wastewater within the time period beginning ten years before the effective date of a final rule revising part 432. Thus, if EPA promulgates revised NSPS for part 432 in December 2003, and those regulations take effect in January 2004, any direct discharging new source that commenced discharge after January 1994 but before February 2004 would be subject to the currently codified NSPS for ten years from the date it commenced discharge or during the period of depreciation or amortization of such facility, whichever comes first. See CWA section 306(d). After that ten year period expires, any new or revised BAT limitations would apply with respect to toxics and nonconventional pollutants. Limitations on conventional pollutants would be based on the current NSPS for conventional pollutants unless EPA promulgates revisions to BPT/BCT for conventional pollutants that are more stringent than these NSPS requirements. EPA is reproducing in the MPP Development Document the NSPS codified in the 2001 edition of the Code of Federal Regulations for use during the applicable ten-year period.

3. National Pretreatment Standards

40 CFR Part 403 sets out national pretreatment standards which have three principal objectives: (1) To prevent the introduction of pollutants into publicly owned treatment works (POTWs) that will interfere with POTW operations, including use or disposal of municipal sludge; (2) to prevent the introduction of pollutants into POTWs which will pass through the treatment works or will otherwise be incompatible with the treatment works; and (3) to improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

The national pretreatment and categorical standards comprise a series of prohibited discharges to prevent the discharge of ''any pollutant(s) which cause Pass Through or Interference.'' (*see* 40 CFR 403.5(a)(1)) Local control authorities are required to implement the national pretreatment program including application of the federal categorical pretreatment standards to their industrial users that are subject to such categorical pretreatment standards, as well as any pretreatment standards derived locally (i.e., local limits) that are more restrictive than the federal standards. This proposed regulation

does not revise federal categorical pretreatment standards (PSES and PSNS) applicable to meat and poultry processing facilities regulated by 40 CFR part 432.

The federal categorical pretreatment standards for existing sources must be achieved not later than three years following the date of publication of the final standards. If EPA were to promulgate PSNS in the final rule, MPP new sources would be required to comply with the new source performance standards of the MPP rule (once it is finalized) at the time they commence discharging MPP process wastewater. Because the final rule is not expected within 120 days of the proposed rule, the Agency considers an indirect discharger a new source if its construction commences following promulgation of the final rule (40 CFR 122.2; 40 CFR 403.3). EPA expects to take final action on this proposal in December 2003.

In addition, § 403.7 of the Clean Water Act provides the criteria and procedures to be used by a Control Authority to grant a categorical industrial user (CIU) variance from a pollutant limit specified in a categorical pretreatment standard to reflect removal by the POTW treatment plant of the pollutant. Procedures for granting removal credits are specified in 40 CFR 403.11.

B. Upset and Bypass Provisions

A ''bypass'' is an intentional diversion of the streams from any portion of a treatment facility. An ''upset'' is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. EPA's regulations concerning bypasses and upsets for direct dischargers are set forth at 40 CFR 122.41(m) and (n) and for indirect dischargers at 40 CFR 403.16 and 403.17.

C. Variances and Modifications

The CWA requires application of effluent limitations established pursuant to section 301 or pretreatment standards of section 307 to all direct and indirect dischargers. However, the statute provides for the modification of these national requirements in a limited number of circumstances. Moreover, the Agency has established administrative mechanisms to provide an opportunity for relief from the application of the national effluent limitations guidelines and pretreatment standards for categories of existing sources for toxic, conventional, and nonconventional pollutants.

1. Fundamentally Different Factors Variances

EPA will develop effluent limitations or standards different from the otherwise applicable requirements if an individual discharging facility is fundamentally different with respect to factors considered in establishing the limitation of standards applicable to the individual facility. Such a modification is known as a ''fundamentally different factors'' (FDF) variance.

Early on, EPA, by regulation provided for the FDF modifications from the BPT effluent limitations, BAT limitations for toxic and nonconventional pollutants and BPT limitations for conventional pollutants for direct dischargers. For indirect dischargers, EPA provide for modifications from pretreatment standards. FDF variances for toxic pollutants were challenged judicially and ultimately sustained by the Supreme Court. (*Chemical Manufacturers Assn* v. *NRDC,* 479 U.S. 116 (1985)).

Subsequently, in the Water Quality Act of 1987, Congress added new section 301(n) of the Act explicitly to authorize modifications of the otherwise applicable BAT effluent limitations or categorical pretreatment standards for existing sources if a facility is fundamentally different with respect to the factors specified in section 304 (other than costs) from those considered by EPA in establishing the effluent limitations or pretreatment standard. Section 301(n) also defined the conditions under which EPA may establish alternative requirements. Under Section 301(n), an application for approval of a FDF variance must be based solely on (1) information submitted during rulemaking raising the factors that are fundamentally different or (2) information the applicant did not have an opportunity to submit. The alternate limitation or standard must be no less stringent than justified by the difference and must not result in markedly more adverse non-water quality environmental impacts than the national limitation or standard.

EPA regulations at 40 CFR part 125, subpart D, authorizing the Regional Administrators to establish alternative limitations and standards, further detail the substantive criteria used to evaluate FDF variance requests for direct dischargers. Thus, 40 CFR 125.31(d) identifies six factors (*e.g.,* volume of process wastewater, age and size of a discharger's facility) that may be considered in determining if a facility is fundamentally different. The Agency must determine whether, on the basis of one or more of these factors, the facility in question is fundamentally different from the facilities and factors considered by EPA in developing the nationally applicable effluent guidelines. The regulation also lists four other factors (*e.g.,* infeasibility of installation within the time allowed or a discharger's ability to pay) that may not provide a basis for an FDF variance. In addition, under 40 CFR 125.31(b) (3), a request for limitations less stringent than the national limitation may be approved only if compliance with the national limitations would result in either (a) a removal cost wholly out of proportion to the removal cost considered during development of the national limitations, or (b) a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits. EPA regulations provide for an FDF variance for indirect dischargers at 40 CFR 403.13. The conditions for approval of a request to modify applicable pretreatment standards and factors considered are the same as those for direct dischargers.

The legislative history of section 301(n) underscores the necessity for the FDF variance applicant to establish eligibility for the variance. EPA's regulations at 40 CFR 125.32(b)(1) are explicit in imposing this burden upon the applicant. The applicant must show that the factors relating to the discharge controlled by the applicant's permit which are claimed to be fundamentally different are, in fact, fundamentally different from those factors considered by EPA in establishing the applicable guidelines. The criteria for applying for and evaluating applications for variances from categorical pretreatment standards are included in the pretreatment regulations at 40 CFR 403.13(h)(9). An FDF variance is not available to a new source performance subject to NSPS or PSNS.

2. Economic Variances

Section 301(c) of the CWA authorizes a variance from the otherwise applicable BAT effluent guidelines for nonconventional pollutants due to economic factors. The request for a variance from effluent limitations developed from BAT guidelines must normally be filed by the discharger during the public notice period for the draft permit. Other filing time periods may apply, as specified in 40 CFR 122.21(1)(2). Specific guidance for this type of variance is available from EPA's Office of Wastewater Management.

3. Water Quality Variances

Section 301(g) of the CWA authorizes a variance from BAT effluent guidelines for certain nonconventional pollutants due to localized environmental factors. These pollutants include ammonia, chlorine, color, iron, and total phenols.

D. Production Basis for Calculation of Permit Limitations

1. Background

The effluent limitations guidelines and standards for BPT, BAT, and NSPS proposed today are expressed as mass limitations in pounds (of pollutant) per 1000 pounds (of production unit). EPA is soliciting comment on PSES and PSNS numeric standards that are concentration-based. The NPDES regulations (40 CFR 122.45(f)) require permit writers to implement mass-based limitations for direct dischargers, but allows an exception when the limits are expressed in terms of other units of measurement (*e.g.,* concentration) and the General Pretreatment Standards (40 CFR 403.6(d)) provide that the control authority may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment requirements or where mass limitations are appropriate. EPA believes that MPP facilities that have been using the best pollution prevention and water conservation practices may also request that the permit writer or POTW use mass-based limits in their permits or control mechanism. The Agency is providing detailed information on water use levels for specific unit operations in Section 6 of the MPP Development Document for today's proposal. EPA believes this information will be useful to permit writers and control authorities in those instances where they deem it appropriate to set mass-based limits.

2. Mass-Based Limitations and Standards

The effluent limitations guidelines and standards for BPT, BAT, and NSPS proposed today are expressed as mass limitations in pounds (of pollutant) per 1000 pounds (of production unit). Production units include Live Weight Killed (LWK), Equivalent Live Weight Killed (ELWK), Finished Product (FP) and Raw Material (RM). The mass limitation is derived by multiplying an effluent concentration (determined from the analysis of treatment system performance) by an appropriate wastewater volume (''production-normalized flow'') determined for each MPP operation expressed in gallons/1000 pounds of product. EPA developed the production normalized flows used to develop the limits in the proposed rule from survey questionnaire responses from MPP facilities. (The production-normalized flows are provided in Section VI.A.)

A facility subject to today's proposed regulation can use a combination of various treatment alternatives and/or water conservation practices to achieve a particular effluent limitation or standard. The model treatment systems (see Section XI) illustrate at least one means available to achieve the proposed effluent limitations guidelines and standards.

As discussed above in Section XII.D.1, both the NPDES permit regulations and the General Pretreatment Regulations discuss the use of mass-based limitations and standards. In order to convert the proposed effluent limitations and standards expressed as pounds/1,000 pounds of product to a monthly average or daily maximum permit limit, the permitting or control authority would use a production rate with units of 1,000 pounds/day. The NPDES permit regulations (40 CFR 122.45(b)(2)) require that NPDES permit limits be based on a ''* * * reasonable measure of actual production.'' A similar requirement is found in the General Pretreatment regulations (40 CFR 403.6(c)(3)). The production rates used for NPDES permitting for the MPP industry have commonly been the highest annual average production from the prior five year period prorated to a daily basis.

The objective in determining a production estimate for a facility is to develop a measure of production which can reasonably be expected to prevail during the next term of the permit. This is used in combination with the production-based limitations to establish a maximum mass of pollutant that may be discharged each day and month. However, if the permit production rate is based on the maximum month, then the permit could allow excessive discharges of pollutants during significant portions of the life of the permit. These excessive allowances may discourage facilities from ensuring optimal waste management, water conservation, and wastewater treatment practices during lower production periods. On the other hand, if the average permit production rate is based on an average derived from the highest year of production over the past five years, then facilities may have trouble ensuring that their waste management, water conservation, and wastewater treatment practices can accommodate shorter periods of higher production. This might require facilities to target a more stringent treatment level than that on which the limits were based during these periods of high production. To accomplish this, facilities would likely have to develop more efficient treatment systems and better water conservation and waste management practices during these periods. The Agency solicits comments on related costs and any technical difficulties that meat and poultry processing facilities might have in meeting limits during short periods of high production. EPA also solicits other options for consideration.

The proposed limitations neither require the installation of any specific control technology nor the attainment of any specific flow rate or effluent concentration. A facility subject to today's proposed regulation can use various treatment alternatives or water conservation practices to achieve a particular effluent limitation or standard. The model treatment systems described here illustrate at least one means available to achieve the proposed effluent limitations guidelines and standards.

E. Best Management Practices

Sections 304(e), 308(a), 402(a), and 501(a) of the CWA authorize the Administrator to prescribe BMPs as part of effluent limitations guidelines and standards or as part of a permit. EPA's BMP regulations are found at 40 CFR 122.44(k). Section 304(e) of the CWA authorizes EPA to include BMPs in effluent limitations guidelines for certain toxic or hazardous pollutants for the purpose of controlling ''plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage.'' Section 402(a)(1) and NPDES regulations (40 CFR 122.44(k)) also provide for best management practices to control or abate the discharge of pollutants when numeric limitations and standards are infeasible. In addition, Section 402(a)(2), read in concert with Section 501(a), authorizes EPA to prescribe as wide a range of permit conditions as the Administrator deems appropriate in order to ensure compliance with applicable effluent limitations and standards and such other requirements as the Administrator deems appropriate.

Dikes, curbs, and other control measures are being used at some MPP facilities to contain leaks and spills as part of good ''housekeeping'' practices.'' However, on a facility-by-facility basis a permit writer may choose to incorporate BMPs into the permit. See MPP Development Document for this proposed rule for a detailed discussion of pollution prevention and best management practices used in the MPP industry.

As described elsewhere in today's notice, EPA is considering an alternative to potential numeric pretreatment limitations and standards that would involve implementing BMPs as part of an Environmental Management System (EMS) (*see* Section XI.B).

XIII. Administrative Requirements

A. Executive Order 12866: ''Regulatory Planning and Review''

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

It has been determined that this proposed rule is a ''significant regulatory action'' under the terms of Executive Order 12866. 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.

B. Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business based on full time employees (FTEs) or annual revenues established by SBA; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

The definitions of small business for the meat products industries are in SBA's regulations at 13 CFR 121.201. These size standards were updated effective October 1, 2000. SBA size standards for the meat and poultry products industry (that is, for NAICS codes 311611, 311612, 311613, and 311615) define a ''small business'' as one which has 500 or fewer employees.

EPA estimates that small businesses own 71 facilities out of 246 facilities that would be regulated under the rule as proposed. EPA based this estimate on information from the screener survey and SBA as described in Section VIII.M. EPA assumes that it is unlikely that any small company owns more than one facility. EPA has fully evaluated the economic impact of the proposed rule on the affected small companies. None of the facilities owned by small companies have a cost/sales ratio greater than one percent. For this proposal, EPA is using the ratio of annualized compliance costs to net income as its central measure of economic achievability (see Section VIII.E for a definition of this measure). EPA estimates that, based on its model facilities, 38 of the 71 facilities owned by small companies have cost/net income ratios between five and nine percent, eight facilities have cost/net income ratios between two and three percent, while the other 25 facilities owned by small companies have cost/net income ratios less than one percent. EPA also calculated the ratio of cost to sales as a supplement to the cost/net income ratio. (More detail on these estimates is provided in the EA.) After considering the economic impact of today's proposed rule on small entities, including consideration of alternative regulatory approaches being proposed, I certify that this action will not have significant economic impact on a substantial number of small entities.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. EPA is not proposing any new requirements on 5411 (or the vast majority of) facilities. Most of these are owned by small businesses and many of the smallest could likely experience serious economic impacts if requirements were imposed. EPA considered regulating an additional subset of this group of 5411 facilities, the 731 largest indirect discharging facilities, 462 of which are owned by small businesses. If the costs of Option 1 for PSES standards were imposed on these facilities, EPA estimates that 235 of the 462 facilities owned by small companies would have a cost/net income ratio between one and two percent while the other 227 facilities owned by small companies would have a cost/net income ratio of less than one percent. Thus, even if EPA had proposed Option 1 PSES standards for indirect dischargers the combined proposal would not have had a significant impact on a substantial number of small entities.

EPA has held several teleconferences with representatives of the American Association of Meat Processors (AAMP) which has almost a third of its association members with less than 10 FTE at the company level. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, 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 one year.

Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative, if the Administrator publishes with the final rule an explanation 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.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The total annual cost of this rule is estimated to be $80 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. The facilities which are affected by today's proposal are direct dischargers engaged in the slaughtering or processing of meat and poultry and the rendering of by-products resulting from these activities. These facilities would be subject to today's proposed requirements through the issuance or renewal of an NPDES permit either from the Federal EPA or authorized State governments. These facilities should already have NPDES permits as the Clean Water Act requires a permit be held by any point source discharger before that facility may discharge wastewater pollutants into surface waters. Therefore, today's proposal could require these permits to be revised to comply with revised federal standards, but should not require a new permit program be implemented.

EPA is not proposing to establish pretreatment standards for this point source category which are applied to indirect dischargers and overseen by Control Authorities. Local governments are frequently the Control Authority but since this regulation proposes no pretreatment standards, there would be no impact imposed on local governments. Thus, today's rule is not subject to the requirements of section 203 of UMRA.

D. Executive Order 13045: ''Protection of Children From Environmental Health Risks and Safety Risks''

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 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 and safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to E.O. 13045 because it is not economically significant under E.O. 12866, nor does it concern an environmental health or safety risk that may have a disproportionate effect on children.

E. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

EPA has compared 492 tribal zip codes obtained from EPA's America Indian Environmental Office (AIEO) to the 5,270 zip codes from EPA's Hazard Analysis and Critical Control Points (HACCP) database. EPA identified approximately 64 MPP facilities located in 36 tribal zip codes. Of these 64 MPP facilities, 50 are classified as very small (<10 employees), 13 as small (10–499 employees), and only one facility as large (≥500 employees). EPA expects the proposed rule would not affect any of the very small facilities. It would only cover some of the facilities employing 10 to 499 employees and the one facility employing greater than or equal to 500 employees. (EPA cannot determine from the HACCP database which of these facilities are indirect dischargers and which are direct dischargers, although the large majority of these facilities are indirect dischargers.)

F. Paperwork Reduction Act

This proposed rule contains no new information collection requirements. Therefore, this rule is not subject to the Paperwork Reduction Act. OMB has previously approved information collection requirements for CWA direct dischargers to comply with their NPDES permits and for indirect dischargers to comply with pretreatment requirements. Burden estimates for direct dischargers to comply with this rule are contained in the ''National Pollutant Discharge Elimination System (NPDES)/ Compliance Assessment/Certification Information'' ICR (OMB control no. 2040–0110). Burden estimates for indirect discharging facilities to comply with 40 CFR Part 403 are included in the ''National Pretreatment Program (40 CFR part 403)'' ICR (OMB control no. 2040–0009).

Copies of the ICR document(s) may be obtained from Sandy Farmer, by mail at the Office of Environmental Information, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460, by e-mail at *farmer.sandy@epa.gov,* or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr.* Include the ICR and /or OMB number in any correspondence.

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.

However, should EPA proceed with the Regulatory Alternative for indirect dischargers there could be new information collection requirements. The Agency will develop an Information Collection Request seeking clearance for any additional information collection requirements when we have fully evaluated and developed this alternative.

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.

G. Executive Order 13132: ''Federalism''

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have Federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. EPA estimates that, when promulgated, these revised effluent guidelines and standards will be incorporated into NPDES permits without any additional costs to authorized States.

Further, the revised regulations would not alter the basic State-Federal scheme established in the Clean Water Act under which EPA authorizes States to carry out the NPDES permitting program. EPA expects the revised regulations to have little effect, if any, on the relationship between, or the distribution of power and responsibilities among, the Federal, State and local governments. Thus, Executive Order 13132 does not apply to this rule.

H. Executive Order 12898: ''Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations''

The requirements of the Environmental Justice Executive Order are that EPA will review the environmental effects of major Federal actions significantly affecting the quality of the human environment. For such actions, EPA reviewers will focus on the spatial distribution of human health, social and economic effects to ensure that agency decision makers are aware of the extent to which those impacts fall disproportionately on covered communities.'' This is not a major action. Further, EPA does not believe this rulemaking will have a disproportionate effect on minority or low income communities because the technology-based effluent limitations guidelines are uniformly applied nationally irrespective of geographic location. The proposed regulation will reduce the negative effects of meat and poultry products industry waste in our nation's waters to benefit all of society, including minority and low-income communities. The cost impacts of the rule should likewise not disproportionately affect low-income communities given the relatively low economic impacts of the rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub L. 104–113 Sec. 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 standard bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (OMB), explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. The proposed rule requires certain facilities that produce meat or poultry products to monitor for fecal coliform, COD, BOD_5, TSS, oil & grease, ammonia, total phosphorus, and total nitrogen (sum of nitrate/nitrite and Total Kjeldahl Nitrogen (TKN)). EPA performed a search to identify potentially voluntary consensus standards that could be used to measure the parameters in today's proposed guideline. EPA's search revealed that consensus standards for these paramenters exist and are already specified in the tables at 40 CFR 136.3. In addition, EPA is proposing to add a voluntary consensus standard (Method 300.0) for measuring nitrate/nitrite. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

J. Executive Order 13211: ''Energy Effects''

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. As part of the Agency's consideration of Non-Water Quality Impacts, EPA has estimated the energy consumption associated with today's proposed requirements. EPA estimates that meat and poultry processing facilities will decrease their energy consumption by 144 million KWH/yr which is approximately 6 percent of current energy used by this industrial sector. The decrease is associated with the proposed BAT technologies for the poultry and meat subcategories, which would result in treatment to remove nitrogen prior to discharge. Denitrification, following nitrification, which most direct discharging facilities currently have in place, will reduce energy usage. To remove the nitrates and nitrites generated by nitrifying ammonia, a typical facility is likely to use the oxygen attached to the nitrogen compounds to further break down the BOD, which means that the facility can actually reduce the need to add oxygen to the system through aeration of the wastewater. Shutting off the aeration equipment will reduce the energy used in operating the treatment system. EPA estimates that there will be no change in the energy requirements to operate the treatment system for the rendering subcategory as a result of today's proposed rule as the proposed rule does not change the technology basis (nitrification) for rendering facilities. See Section X.A of today's notice for more discussion of how these energy usages were determined. Therefore, we have concluded that this rule is not likely to have any adverse energy effects.

K. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. We invite your comments on how to make this proposed rule easier to understand. For example, have we organized the material to suit your needs? Are the requirements in the rule clearly stated? Does the rule contain technical language or jargon that is not clear? Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? Would more (but shorter) sections be better? Could we improve clarity by adding tables, lists, or diagrams? What else could we do to make the rule easier to understand?

XIV. Solicitation of Data and Comments

A. General and Specific Comment Solicitation

EPA solicits comments on various issues specifically identified in the preamble as well as any other issues that are not specifically addressed in today's notice. Specifically, EPA solicits information, data, and comment on the following topics:

- Additional information and data on the performance and associated costs of all wastewater treatment technologies currently or potentially capable of treating MPP wastewaters;
- EPA's intended use of data (e.g, monitoring data) to perform a ''real-world'' check on the achievability of the limitations and standards;
- The potential of MPP facilities to reduce water consumption and new technologies or practices that can effectively reuse water;
- Description of all types of flocculants or treatment aids used in MPP WWTP and their concentrations that are commonly not accepted by independent renderers;
- Differences in production and wastewater generation and characteristics between non-religious and religious meat and poultry facilities;
- Whether EPA should approve the use of Method 300.0 for the meat and poultry industry;
- EPA's notation for oil and grease limitations and standards in the proposed rule;
- Whether EPA should regulate total residual chlorine;
- EPA's methodology for determining LTAs and variability factors used in this proposal;
- Need for a different monthly average limitations for small and non-small facilities;
- Whether EPA should set more stringent standards for either direct or indirect new sources;
- Additional methods for estimating and monetizing benefits associated with the proposed rule;
- The economic analysis in this proposal and the methods it is considering for subsequent analyses, particularly the use of cash flow as a measure of resources available to finance environmental compliance and suggestions for alternative methodologies;
- Whether TDS limitations and standards are necessary and which industry subcategories (if any) should be subject to these potential limitations and standards;
- Additional data and information related to instances of MPP indirect dischargers causing POTW interference or pass through (*see* Section XI.B);
- Information on whether or not EPA should regulate indirect dischargers (*see* Section XI.B);
- Additional data and information related to MPP facilities implementing EMSs or BMPs (*see* Section XI.F);
- Information on whether or not EPA should establish regulatory alternatives to potential pretreatment standards for indirect dischargers (*see* Section XI.F).
- Additional data and information on exotic and other meat and poultry product facilities (e.g., horse, goats, elk, deer, buffalo, ostriches, quail, pheasants, rabbits, and other small game). EPA is soliciting additional data and information on the industry profile for these meat and poultry product facilities including type of operations, annual production, number of employees per facility, typical wastewater characteristics, typical methods of wastewater management and treatment.

B. Regulatory Alternative to Potential Numerical Pretreatment Standards

EPA is describing a regulatory alternative to numerical pretreatment standards which would require meat and poultry products facilities to implement specific BMPs as part of a facility-wide Environmental Management System. See Section XI.F for the discussion of this regulatory alternative. EPA solicits comments on this alternative. Would it be a protective of the environment? Would meat and poultry products facilities choose this regulatory alternative?

EPA is also seeking data and information on the costs and burdens and even cost savings associated with implementing an EMS and the specific BMPs. Environmental improvements associated with implementing the BMPs, expressed in terms of pollutant reductions in wastewater discharges and other environmental improvements associated with the implementation of an EMS.

EPA solicits comments on the establishment of pretreatment standards for oil & grease on the basis of interferences of POTW performance. As discussed in Section XI.B, EPA has identified a number of instances where the discharge of untreated meat and poultry products wastewater has led to interference with a POTW treatment system.

XV. Guidelines for Submission of Analytical Data

EPA requests that commenters to today's proposed rule submit analytical, flow, and production data to supplement data collected by the Agency during the regulatory development process. To ensure that commenter data may be effectively evaluated by the Agency, EPA has developed the following guidelines for submission of data.

A. Types of Data Requested

EPA requests paired influent and effluent treatment data for each of the technologies identified in the technology options (*see* Section VII.A) as well as any additional technologies applicable to the treatment of MPP wastewater. EPA prefers paired influent and effluent treatment data, but also solicits unpaired data as well. Data from systems treating only non-process MPP wastewater (e.g., sanitary wastewater or non-contact cooling water) will not be evaluated by EPA.

For the systems treating MPP process wastewater, EPA requests paired influent and effluent treatment data from 24-hour composite samples of flowing wastewater streams (except for analyses requiring grab samples, such as oil and grease). This includes end-of-pipe treatment technologies and in-process treatment, recycling, or water reuse. Submission of effluent data alone is acceptable, but the commenters should provide evidence that the influent concentrations contain treatable levels of the pollutants. If commenters sample their wastewaters to respond to this proposal, EPA encourages them to sample both the influent and effluent wastestreams.

EPA prefers that the data be submitted in an electronic format. In addition to providing the measurement of the pollutant in each sample, EPA requests that sites provide the detection limit (rather than specifying zero or 'ND') if the pollutant is non-detected in the wastestream. Each measurement should be identified with a sample collection date, the sampling point location, and the flow rate at that location. For each sample or pollutant, EPA requests that the chemical analytical method be identified.

In support of the treatment data, commenters should submit the following items if they are available: A process diagram of the treatment system that includes the sampling point locations; treatment chemical addition rates; laboratory reports; influent and effluent flow rates for each treatment unit during the sampling period; production in each subcategory (daily values are preferred, but either production or estimated production during the sampling period are also acceptable); sludge or waste oil generation rates; a brief discussion of the treatment technology sampled; and a list of MPP operations contributing to

the sampled wastestream. If available, information on capital cost, annual (operation and maintenance) cost, and treatment capacity should be included for each treatment unit within the system.

B. Analytes Requested

EPA considered metal, organic, conventional, and other nonconventional pollutant parameters for regulation. Based on analytical data collected, EPA initially identified 30 pollutants of concern for the meat processing segment of the industry and 27 pollutants of concern for the poultry processing segment of the industry (*see* Section VII.C and MPP Development Document). The Agency requests analytical data for any of the pollutants of concern and for any other pollutant parameters that commentors believe are of concern in the MPP industry. Of particular interest are BOD_5, TSS, Ammonia as Nitrogen, and pH data. Commentors should use the methods listed in Table XV.C–1 or equivalent methods (generally, those approved at 40 CFR 136 for compliance monitoring), and should document the method used for all data submissions. The methods are described in more detail in the MPP Development Document.

C. Quality Assurance/Quality Control (QA/QC) Requirements

EPA based today's proposed regulations on analytical data collected by EPA using rigorous QA/QC checks specified in the analytical methods listed in Table XV.C–1. These QA/QC checks include procedures specified in each of the analytical methods, as well as procedures used for the MPP sampling program in accordance with EPA sampling and analysis protocols. These QA/QC procedures include sample preservation and the use of method blanks, matrix spikes, matrix spike duplicates, laboratory duplicate samples, and QC standard checks (e.g., continuing calibration blanks). Because of these rigorous checks, EPA has high confidence in its data. Thus, EPA requests that submissions of analytical data include any available documentation of QA/QC procedures. However, EPA will still consider data submitted without detailed QA/QC information. If commenters sample their wastewaters to respond to this proposal, EPA encourages them to provide detailed documentation of the QA/QC checks for each sample. EPA also requests that sites collect and analyze 10 percent field duplicate samples to assess sampling variability, and sites provide data for equipment blanks for volatile organic pollutants when automatic compositors are used to collect samples.

TABLE XV.C–1.—ANALYTICAL METHODS FOR USE WITH MPP WASTEWATERS

Parameter	Method used in EPA sampling (alternative methods)
Aeromonas	9260L
Acidity	305.1
Alkalinity	310.1
Ammonia as Nitrogen	350.2
BOD 5-Day	405.1
BOD 5-Day (Carbonaceous)	405.1, SM5210
Carbaryl	632
Chemical Oxygen Demand (COD).	410.1 410.2 410.4 5220B
Chloride	300.0 325.3
Dichlorvos	1657
E. coli	9221F
Metals	1620 (200.7, 245.1)
Volatile Organics	1624 (624)
Semivolatile Organics	1625 (625)
Malathion	1657
Nitrate/Nitrite	300.0 353.1 353.2
Nitrogen, Total Kjeldahl	351.2 351.3
Oil and Grease	413.2
Oil and Grease (as HEM)	1664
cis-Permethrin	1660
trans-Permethrin	1660
pH	150.1 (SM 4500 H^+ B)
Phosphorus, Total	365.2 365.3
Salmonella	FDA–BAM
Tetrachlorvinphos (stirofos)	1657
Total Dissolved Solids (TDS)	160.1
Total Organic Carbon (TOC)	415.1
Total Orthophosphate	300.0 365.2
Total Suspended Solids (TSS)	160.2

Note: Standard Method (SM).

Appendix A: Definitions, Acronyms, and Abbreviations Used in This Document

AAMP—The American Association of Meat Processors

Administrator—The Administrator of the U.S. Environmental Protection Agency.

Agency—The U.S. Environmental Protection Agency

AMI—American Meat Institute

AMSA—Association of Metropolitan Sewerage Agencies

BAT—The best available technology economically achievable, applicable to effluent limitations for industrial discharges to surface waters, as defined by Section 304(b)(2)(B) of the CWA.

BCT—The best control technology for conventional pollutants, applicable to discharges of conventional pollutants from existing industrial point sources, as defined by Section 304(b)(4) of the CWA

BOD_5—Biochemical Oxygen Demand measured over a five day period.

BPJ—Best Professional Judgment

BPT—The best practicable control technology currently available, applicable to effluent limitations, for industrial discharges to surface waters, as defined by Section 304(b)(1) of the CWA.

CFR—Code of Federal Regulations

Clean Water Act (CWA)—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended.

Clean Water Act (CWA) Section 308 Questionnaire—A questionnaire sent to facilities under the authority of Section 308 of the CWA, which requests information to be used in the development of national effluent guidelines and standards.

Conventional Pollutants—Constituents of wastewater as determined by section 304(a)(4) of the CWA (and EPA regulations), *i.e.,* pollutants classified as biochemical oxygen demand, total suspended solids, oil and grease, fecal coliform, and pH.

Daily Discharge—The discharge of a pollutant measured during any calendar day or any 24-hour period that reasonably represents a calendar day.

Direct Discharger—A facility that discharges or may discharge treated or untreated wastewaters into waters of the United States.

DMR—Discharge Monitoring Report.

Effluent Limitation Guideline (ELGS)—Under CWA section 502(11), any restriction, including schedules of compliance, established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean (CWA sections 301(b) and 304(b)).

Existing Source—For this rule, any facility from which there is or may be a discharge of pollutants, the construction of which is commenced before the publication of the final regulations prescribing a standard of performance under section 306 of the CWA.

Facility—All contiguous property and equipment owned, operated, leased, or under the control of the same person or entity.

FDF—Fundamentally Different Factor

Finished Product—The final manufactured product produced on site, including products intended for consumption with no additional processing as well as products intended for further processing, when applicable.

First Processing—Operations which receive live meat animals or poultry and produce a raw, dressed meat or poultry product, either whole or in parts.

FTE—Full Time Equivalent Employee

Further Processing—Operations which utilize whole carcasses or cut-up meat or poultry products for the production of fresh or frozen products, and may include

the following types of processing: cutting and deboning, cooking, seasoning, smoking, canning, grinding, chopping, dicing, forming or breading.

Hazardous Waste—Any waste, including wastewater, defined as hazardous under RCRA, TSCA, or any State law.

HEM—A measure of oil and grease in wastewater by mixing the wastewater with hexane and measuring the oils and greases that are removed from the wastewater with n-hexane. Specifically EPA Method 1664, see 40 CFR 136.3, Table IB.

Indirect Discharger—A facility that discharges or may discharge wastewaters into a publicly-owned treatment works.

LTA (Long-Term Average)—For purposes of the effluent guidelines, average pollutant levels achieved over a period of time by a facility, subcategory, or technology option. LTAs were used in developing the effluent limitations guidelines and standards in today's proposed regulation.

Live Weight Killed (LWK)—The total weight of the total number of animals slaughtered during a specific time period.

Maximum Monthly Discharge Limitation—The highest allowable average of ''daily discharges'' over a calendar month, calculated as the sum of all ''daily discharges'' measured during the calendar month divided by the number of ''daily discharges'' measured during the month.

Meat—The term ''meat'' includes all animal products from cattle, calves, hogs, sheep, lambs, horses, goats and exotic livestock (e.g. elk, buffalo, deer) etc., except those defined as Poultry for human consumption. This category may include certain species not classified as ''meat'' by USDA FSIS and that may or may not be under USDA FSIS voluntary inspection.

MPP—Meat and Poultry Products

Minimum Level—The level at which an analytical system gives recognizable signals and an acceptable calibration point.

NAICS—North American Industry Classification System. NAICS was developed jointly by the U.S., Canada, and Mexico to provide new comparability in statistics about business activity across North America.

National Pollutant Discharge Elimination System (NPDES) Permit—A permit to discharge wastewater into waters of the United States issued under the National Pollutant Discharge Elimination System, authorized by section 402 of the CWA.

Nitrification Capability—The capability of a POTW treatment system to oxidize ammonia or ammonium salts initially to nitrites (via *Nitrosomonas* bacteria) and subsequently to nitrates (via *Nitrobacter* bacteria). Criteria for determining the nitrification capability of a POTW treatment system are: bioassays confirming the presence of nitrifying bacteria; and analyses of the nitrogen balance demonstrating a reduction in the concentration of ammonia or ammonium salts and an increase in the concentrations of nitrites and nitrates.

Non-Conventional Pollutants—Pollutants that are neither conventional pollutants nor priority pollutants listed at 40 CFR 401.15 and part 423 appendix A.

Non-Water Quality Environmental Impact—Deleterious aspects of control and treatment technologies applicable to point source category wastes, including, but not limited to air pollution, noise, radiation, sludge and solid waste generation, and energy used.

NRA—National Renderers Association

NRDC—Natural Resources Defense Council

NSPS—New Sources Performance Standards, applicable to industrial facilities whose construction is begun after the effective date of the final regulations (if those regulations are promulgated after June 25, 2002). EPA is scheduled to take final action on this proposal in December 2003. See 40 CFR 122.2.

NTTA—National Technology Transfer and Advancement Act

NWPCAM—The National Water Pollution Control Assessment Model (version 1.1) is a computer model to model the instream dissolved oxygen concentration, as influenced by pollutant reductions of BOD_5, Total Kjeldahl Nitrogen, Total Suspended Solids, and Fecal Coliform.

LWK and ELWK—Live Weight Killed and the Equivalent Live Weight Killed

Outfall—The mouth of conduit drains and other conduits from which a facility effluent discharges into receiving waters.

Pass Through—The term ''Pass Through'' means a Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Point Source—Any discernable, confined, and discrete conveyance from which pollutants are or may be discharged. See CWA section 502(14).

Pollutants of Concern (POCs)—Pollutants commonly found in meat and poultry processing wastewaters. Generally, a chemical is considered as a POC if it was detected in untreated process wastewater at 5 times a baseline value in more than 10% of the samples.

Poultry—Broilers, other young chickens, hens, fowl, mature chickens, turkeys, capons, geese, ducks, exotic poultry (e.g. ostriches), and small game such as quail, pheasants, and rabbits. This category may include species not classified as ''poultry'' by USDA FSIS and that may or may not be under USDA FSIS voluntary inspection.

Priority Pollutant—One hundred twenty-six compounds that are a subset of the 65 toxic pollutants and classes of pollutants outlined pursuant to section 307 of the CWA.

PSES—Pretreatment standards for existing sources of indirect discharges, under Section 307(b) of the CWA, applicable (for this rule) to indirect dischargers that commenced construction prior to promulgation of the final rule.

PSNS—Pretreatment standards for new sources under section 307(c) of the CWA.

Publicly Owned Treatment Works (POTW)—A treatment works as defined by section 212 of the Clean Water Act, which is owned by a State or municipality (as defined by section 502(4) of the Clean Water Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Clean Water Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

Raw Material—The basic input materials to a renderer composed of animal and poultry trimmings, bones, meat scraps, dead animals, feathers and related usable by-products.

RCRA—The Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6901 *et seq.*), which regulates the generation, treatment, storage, disposal, or recycling of solid and hazardous wastes.

RED MEAT—See the definition for ''MEAT''.

RFA—Regulatory Flexibility Act

SAP—Sampling and Analysis Plan

SBREFA—Small Business Regulatory Enforcement Fairness Act of 1996

SCC—Sample Control Center

SER—Small Entity Representative

SIC—Standard Industrial Classification (SIC)—A numerical categorization system used by the U.S. Department of Commerce to catalogue economic activity. SIC codes refer to the products, or group of products, produced or distributed, or to services rendered by an operating establishment. SIC codes are used to group establishments by the economic activities in which they are engaged. SIC codes often denote a facility's primary, secondary, tertiary, etc. economic activities.

Stearin—An ester of glycerol and stearic acid found in MPP wastewaters.

Total Nitrogen—Sum of nitrate/nitrite and TKN.

TKN—Total Kjeldahl Nitrogen

TSS—Total Suspended Solids

List of Subjects in 40 CFR Part 432

Environmental protection; Meat and meat products; Poultry and poultry products; Waste treatment and disposal; Water pollution control.

Dated: January 30, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set forth in this preamble, 40 CFR part 432 is proposed to be revised to read as follows:

PART 432—MEAT AND POULTRY PRODUCTS POINT SOURCE CATEGORY

Sec.

432.1 General applicability.
432.2 General definitions.
432.3 General pretreatment standards.
432.4 General limitation or standard for pH.

Subpart A—Simple Slaughterhouses

432.10 Applicability.

432.11 Special definitions.
432.12 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.13 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.15 New source performance standards (NSPS).
432.17 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart B—Complex Slaughterhouses

432.20 Applicability.
432.21 Special definitions.
432.22 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.23 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.25 New source performance standards (NSPS).
432.27 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart C—Low-Processing Packinghouses

432.30 Applicability.
432.31 Special definitions.
432.32 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.33 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.35 New source performance standards (NSPS).
432.37 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart D—High-Processing Packinghouses

432.40 Applicability.
432.41 Special definitions.
432.42 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.43 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.45 New source performance standards (NSPS).
432.47 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart E—Small Processors

432.50 Applicability.
432.51 Special definitions.
432.52 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.55 New source performance standards (NSPS).
432.57 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart F—Meat Cutters

432.60 Applicability.
432.61 Special definitions.
432.62 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.63 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.65 New source performance standards (NSPS).
432.67 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart G—Sausage and Luncheon Meats Processors

432.70 Applicability.
432.71 Special definitions.
432.72 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.73 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.75 New source performance standards (NSPS).
432.77 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart H—Ham Processors

432.80 Applicability.
432.81 Special definitions.
432.82 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.83 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.85 New source performance standards (NSPS).
432.87 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart I—Canned Meats Processors

432.90 Applicability.
432.91 Special definitions.
432.92 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.93 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.95 New source performance standards (NSPS).
432.97 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart J—Renderers

432.100 Applicability.
432.101 Special definitions.
432.102 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.103 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.105 New source performance standards (NSPS).
432.107 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart K—Poultry First Processing

432.110 Applicability.
432.111 Special definitions.
432.112 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.113 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.115 New source performance standards (NSPS).
432.117 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart L—Poultry Further Processing

432.120 Applicability.
432.121 Special definitions.
432.122 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.123 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.125 New source performance standards (NSPS).
432.127 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Authority: Secs. 301, 304, 306, 307, 308, 402 and 501 of the Clean Water Act, as amended; 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342 and 1361.

§ 432.1 General applicability.

As defined more specifically in each subpart, this part applies to discharges of process wastewater resulting from sources engaged in the slaughtering, dressing and packing of mammals, including cattle, calves, hogs, sheep, lambs, and poultry, including chickens, turkeys, fowl and ducks; production of sausages, luncheon meats, cured, smoked and canned or other prepared meat and poultry products from

purchased carcasses and other materials; or production of animal oils, meat meal and the rendering of grease and tallow from animal fat, bones and meat scraps. These manufacturing activities are generally reported under one or more of the following Standard Industrial Classification (SIC) codes: 0751, 2011, 2013, 2015, 2047, 2048 and 2077 (1987 Manual) and under one or more of the following North American Industry Classification System (NAICS) codes: 311611, 311612, 311615, 311613, 311111, 311119, 311999 and 11234.

§ 432.2 General definitions.

As used in this part:

(a) The general definitions and abbreviations in 40 CFR part 401 shall apply.

(b) *ELWK (equivalent live weight killed)* means the total weight of the total number of animals slaughtered at locations other than the slaughterhouse or packinghouse, which animals provide hides, blood, viscera or renderable materials for processing at that slaughterhouse, in addition to those derived from animals slaughtered on site.

(c) *Fecal coliform* means the bacterial count, as determined by approved methods of analysis for Parameter 1 in Table 1A at 40 CFR 136.3.

(d) *Finished Product* means the final fresh or frozen products resulting from the further processing of meat or poultry whole or cut-up carcasses.

(e) *Further processing* means operations which utilize whole carcasses or cut-up meat or poultry products for the production of fresh or frozen products, and may include the following types of processing: cutting and deboning, cooking, seasoning, smoking, canning, grinding, chopping, dicing, forming and/or breading.

(f) *LWK (live weight killed)* means the total weight of the total number of animals slaughtered during the time period to which the limitations or standards apply, i.e. daily or monthly.

(g) *Meat* means products derived from the slaughter and processing of cattle, calves, hogs, sheep, lambs, and any meat that is not listed under the definition of poultry.

(h) *Packinghouse* means a plant that both slaughters animals and subsequently processes carcasses into cured, smoked, canned or other prepared meat products.

(i) *Poultry* means products derived from the slaughter and processing of broilers, other young chickens, mature chickens, hens, turkeys, capons, geese, ducks, small game fowl such as quail or pheasants, and small game such as rabbits.

(j) *Raw Material* means the basic input materials to a renderer composed of animal and poultry trimmings, bones, blood, meat scraps, dead animals, feathers and related usable by-products.

(k) The other parameters regulated in this part are listed with approved methods of analysis in Table 1B at 40 CFR 136.3, and are defined as follows:

(1) *Ammonia (as N)* means ammonia measured as nitrogen.

(2) *BOD_5* means 5-day biochemical oxygen demand.

(3) *COD* means chemical oxygen demand.

(4) *O&G* means total recoverable oil and grease.

(5) *O&G (as HEM)* means total recoverable oil and grease measured as n-hexane extractable material.

(6) *Total Nitrogen* means the total of nitrate/nitrite and total kjeldahl nitrogen.

(7) *Total Phosphorus* means all of the phosphorus present in the sample, regardless of form, as measured by the persulfate digestion procedure.

(8) *TSS* means total suspended solids.

(l) *Slaughterhouse* means a facility that slaughters animals and has as its main product fresh meat as whole, half or quarter carcasses or small meat cuts.

(m) The nitrate/nitrite part of total nitrogen may be measured by EPA Method 300.0.

§ 432.3 General pretreatment standards.

Any source subject to this part that introduces process wastewater pollutants into a publicly owned treatment works (POTW) must comply with 40 CFR part 403.

§ 432.4 General limitation or standard for pH.

The pH must remain within the range 6 to 9 in any discharge subject to BPT, BAT, NSPS, or BCT limitations or standards in this part.

Subpart A—Simple Slaughterhouses

§ 432.10 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by simple slaughterhouses.

§ 432.11 Special definitions.

For the purpose of this subpart: *Simple slaughterhouse* means a slaughterhouse which accomplishes very limited by-product processing, if any, usually no more than two operations such as rendering, paunch and viscera handling, or processing of blood, hide or hair.

§ 432.12 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5	0.24	0.12
Fecal Coliform	([2])	([2])
O&G [3]	0.12	0.06
TSS	0.40	0.20

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 most probable number (MPN) per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5	0.04	0.02
TSS	0.08	0.04

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(3) Processing of blood derived from animals slaughtered at locations off site: The same limitations for BOD_5 and TSS specified in paragraph (a)(2) of this section apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5	0.06	0.03

SUPPLEMENTAL LIMITATIONS (BPT)—Continued

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
TSS	0.12	0.06

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(5) Dry rendering of material derived from animals slaughtered at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.02	0.01
TSS	0.04	0.02

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK).

(1) Animals slaughtered on-site: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a)(1) of this section; and a limitation for COD is as follows:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.1450	0.1180

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in paragraph (a)(2) of this section apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

(3) Processing of blood derived from animals slaughtered at locations off site: The same supplemental limitations for BOD_5 and TSS specified in paragraph (a)(2) of this section apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in paragraph (a)(4) of this section apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section and the following supplemental limitation for COD applies in addition to the COD limitation specified in paragraph (b)(1) of this section.

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.1550	0.1260

[1] Pounds per 1000 lbs (or g/kg) raw material.

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in paragraph (a)(5) of this section apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section and the supplemental limitations for COD specified in paragraph (b)(4) of this section apply in addition to the COD limitation specified in paragraph (b)(1) of this section.

(6) Further processing of animals slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the COD limitation specified in paragraph (b)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.278	0.226

[1] Pounds per 1000 lbs (or g/kg) finished product.

(7) Rendering of raw materials from animals slaughtered on-site: The following supplemental limitations for COD apply in addition to the COD limitation specified in paragraph (b)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.1550	0.1260

[1] Pounds per 1000 lbs (or g/kg) raw material.

§ 432.13 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT:

(a) Animals slaughtered on-site:

EFFLUENT LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0655	0.0143
Total Nitrogen	0.0561	0.0230
Total Phosphorus	0.0497	0.0238

[1] Pounds per 1000 lbs (or g/kg) LWK.

(b) Further processing of animals slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a) of this section:

SUPPLEMENTAL LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0704	0.0153
Total Nitrogen	0.0965	0.0396
Total Phosphorus	0.0917	0.0439

[1] Pounds per 1000 lbs (or g/kg) finished product.

(c) Rendering of by-products from animals slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a) of this section:

SUPPLEMENTAL LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0438	0.0096
Total Nitrogen	0.0601	0.0247
Total Phosphorus	0.0472	0.0226

[1] Pounds per 1000 lbs (or g/kg) raw material.

§ 432.15 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site: The standards for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.12(a)(1); and standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.34	0.17

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) Processing of blood derived from animals slaughtered at locations off site: The supplemental standards for BOD_5 and TSS specified in § 432.12(a)(2) and the following supplemental standards for ammonia (as N), apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

SUPPLEMENTAL STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.06	0.03

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(3) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental standards for BOD_5 and TSS specified in § 432.12(a)(4) and the following supplemental standards for ammonia (as N) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

SUPPLEMENTAL STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.10	0.05

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(4) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental standards for BOD_5 and TSS specified in § 432.12(a)(5) and the following supplemental standards for ammonia (as N) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

SUPPLEMENTAL STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.04	0.02

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK)

(1) Animals slaughtered on-site:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0655	0.0143
BOD_5	0.0442	0.0208
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.0835	0.0210
Total Nitrogen	0.0561	0.0230
Total Phosphorus	0.0497	0.0238
TSS	0.0178	0.0137

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.

(2) Further processing of animals slaughtered on site, or at locations off site: The following supplemental standards apply in addition to the corresponding standard specified in paragraph (b)(1) of this section:

SUPPLEMENTAL STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0704	0.0153
BOD_5	0.0520	0.0245
O&G (as HEM)	0.1430	0.0362
Total Nitrogen	0.0965	0.0396
Total Phosphorus	0.0917	0.0439
TSS	0.0262	0.0201

[1] Pounds per 1000 lbs (or g/kg) finished product.

(3) Rendering of by-products from animals slaughtered on site, or at locations off site: The following supplemental standards apply in addition to the corresponding standard specified in paragraph (b)(1) of this section:

SUPPLEMENTAL STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0438	0.0096
BOD_5	0.0578	0.0272
O&G (as HEM)	0.1170	0.0297
Total Nitrogen	0.0601	0.0247
Total Phosphorus	0.0472	0.0226
TSS	0.0163	0.0125

[1] Pounds per 1000 lbs (or g/kg) raw material.

§ 432.17 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, TSS, O&G, O&G (as HEM) and fecal coliform are the same as the corresponding limitations specified in § 432.12.

Subpart B—Complex Slaughterhouses

§ 432.20 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by complex slaughterhouses.

§ 432.21 Special definitions.

For the purpose of this subpart: *Complex slaughterhouse* means a slaughterhouse which accomplishes extensive by-product processing, usually at least three operations such as rendering, paunch and viscera handling, or processing of blood, hide or hair.

§ 432.22 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.42	0.21
Fecal Coliform	([2])	([2])
O&G [3]	0.16	0.08
TSS	0.50	0.25

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and

TSS specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK). (1) Animals slaughtered on-site: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a)(1) of this section; and the effluent limitations for COD specified in § 432.12(b)(1) apply.

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(6) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for COD specified in § 432.12(b)(6) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(7) Rendering of raw materials from animals slaughtered on-site: supplemental limitations for COD specified in § 432.12(b)(7) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

§ 432.23 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT:

(a) Animals slaughtered on-site: The effluent limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(a) apply.

(b) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(b) apply in addition to the corresponding limitation specified in § 432.13(a).

(c) Rendering of animals slaughtered on site, or at locations off site: The supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(c) apply in addition to the corresponding limitation specified in § 432.13(a).

§ 432.25 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site: The standards for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.22(a)(1); and the standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.48	0.24

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(2), apply in addition to the corresponding standard specified in paragraph (a)(1) of this section.

(3) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(3) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section.

(4) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(4) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK). (1) Animals slaughtered on-site, the effluent standards for BOD_5, TSS, O&G (as HEM), fecal coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(1) apply.

(2) Further processing of animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(2) apply in addition to the corresponding standard specified in § 432.15(b)(1).

(3) Rendering of by-products from animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(3) apply in addition to the corresponding standard specified in § 432.15(b)(1).

§ 432.27 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitations specified in § 432.22.

Subpart C—Low-processing Packinghouses

§ 432.30 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by low-processing packinghouses.

§ 432.31 Special definitions.

For the purpose of this subpart: *Low-processing packinghouse* means a packinghouse that processes no more, and usually less, that the total animals killed at that plant.

§ 432.32 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.34	0.17
Fecal Coliform	([2])	([2])
O&G [3]	0.16	0.08
TSS	0.48	0.24

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK). (1) Animals slaughtered on-site: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a)(1) of this section; and the effluent limitations for COD specified in § 432.12(b)(1) apply.

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(6) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for COD specified in § 432.12(b)(6) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(7) Rendering of raw materials from animals slaughtered on-site: supplemental limitations for COD specified in § 432.12(b)(7) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

§ 432.33 Effluent limitations attainable by the application of the best available technology economically achievable (BAT)

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT:

(a) Animals slaughtered on-site: The effluent limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(a) apply.

(b) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(b) apply in addition to the corresponding limitation specified in § 432.13(a).

(c) Rendering of animals slaughtered on site, or at locations off site: The supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(c) apply in addition to the corresponding limitation specified in § 432.13(a).

§ 432.35 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.32(a)(1); and standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily[1]	Maximum monthly avg.[1]
Ammonia (as N)	0.48	0.24

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(2), apply in addition to the corresponding standard specified in paragraph (a)(1) of this section.

(3) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(3) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section.

(4) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(4) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK). (1) Animals slaughtered on-site:

The effluent standards for BOD_5, TSS, O&G (as HEM), fecal coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(1) apply.

(2) Further processing of animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(2) apply in addition to the corresponding standard specified in § 432.15(b)(1).

(3) Rendering of by-products from animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(3) apply in addition to the corresponding standard specified in § 432.15(b)(1).

§ 432.37 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitations specified in § 433.32.

Subpart D—High-Processing Packinghouse

§ 432.40 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by high-processing packinghouses.

§ 432.41 Special definitions.

For the purpose of this subpart: *High-processing packinghouse* means a packinghouse which processes both animals slaughtered at the site and additional carcasses from outside sources.

§ 432.42 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK). (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	[2]0.48	0.24
Fecal Coliform	([3])	([3])
O&G [4]	0.26	0.13
TSS [2]	0.62	0.31

[1] Pounds per 1000 lbs (or g/kg) LWK.

[2] The values for BOD_5 and TSS are for average plants, i.e., plants where the ratio: avg.wt. of processed meat products/avg. LWK is 0.55. Adjustments can be made for high-processing packinghouses operating at other such ratios according to the following equations: lbs BOD_5/1000 lbs LWK = 0.21 + 0.23 (v − 0.4) and lbs TSS/1000 lbs LWK = 0.28 + 0.3 (v − 0.4), where v equals the following ratio: lbs processed meat products/lbs LWK.

[3] Maximum of 400 MPN per 100 ml at any time.

[4] May be measured as hexane extractable material (HEM).

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK). (1) Animals slaughtered on-site: Limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a)(1) of this section; and the effluent limitations for COD specified in § 432.12(b)(1) apply.

(2) Processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(3) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section.

(4) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(4) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(5) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations specified in § 432.12(a)(5) apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section; and the supplemental limitations for COD specified in § 432.12(b)(4) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(6) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for COD specified in § 432.12(b)(6) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

(7) Rendering of raw materials from animals slaughtered on-site: The supplemental limitations for COD and specified in § 432.12(b)(7) apply in addition to the corresponding limitation specified in § 432.12(b)(1).

§ 432.43 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more that 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT:

(a) Animals slaughtered on-site: The limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(a).

(b) Further processing of animals slaughtered on site, or at locations off site: The supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(b) apply in addition to the corresponding limitation specified in § 432.13(a).

(c) Rendering of animals slaughtered on site, or at locations off site: The

supplemental limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.13(c) apply in addition to the corresponding limitation specified in § 432.13(a).

§ 432.45 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK): (1) On-site slaughter or subsequent meat, meat product or by-product processing of carcasses of animals slaughtered on-site: The standards for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.42(a)(1); and standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.80	0.40

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) Processing of blood derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(2) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(2), apply in addition to the corresponding standards specified in paragraph (a)(1) of this section.

(3) Wet or low-temperature rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(3) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section.

(4) Dry rendering of material derived from animals slaughtered at locations off site: The supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(5) and the supplemental standards for ammonia (as N) specified in § 432.15(a)(4) apply in addition to the corresponding standard specified in paragraph (a)(1) of this section:

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK).

(1) Animals slaughtered on-site, the effluent standards for BOD_5, TSS, O&G (as HEM), fecal coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(1) apply.

(2) Further processing of animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(2) apply in addition to the corresponding standard specified in § 432.15(b)(1).

(3) Rendering of of by-products from animals slaughtered on site, or at locations off site: The supplemental standards for BOD_5, TSS, O&G (as HEM), Ammonia (as N), Total Nitrogen and Total Phosphorus specified in § 432.15(b)(3) apply in addition to the corresponding standard specified in § 432.15(b)(1).

§ 432.47 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitations specified in § 432.42.

Subpart E—Small Processors

§ 432.50 Applicability.

This part applies to discharges of process wastewater resulting from the production of finished meat products such as fresh meat cuts, smoked products, canned products, hams, sausages, luncheon meats, or similar products by a small processor.

§ 432.51 Special definitions.

For the purpose of this subpart:

(a) *Finished product* means the final product, such as fresh meat cuts, hams, bacon or other smoked meats, sausage, luncheon meats, stew, canned meats or related products.

(b) *Small processor* means an operation that produces up to 6000 lbs (2730 kg) per day of any type or combination of finished products.

§ 432.52 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

EFFLUENT LIMITATIONS (BPT)

Regulated Parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	2.0	1
Fecal Coliform	([2])	([2])
O&G[3]	1.0	0.5
TSS	2.4	1.2

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

§ 432.55 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	1.0	0.5
Fecal Coliform	([2])	([2])
O&G[3]	0.5	0.25
TSS	1.2	0.6

[1] Pound per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

§ 432.57 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS and O&G are the same as the corresponding standard specified in § 432.55.

Subpart F—Meat Cutters

§ 432.60 Applicability.

This part applies to discharges of process wastewater resulting from the fabrication or production of fresh meat cuts, such as steaks, roasts, chops, etc. by a meat cutter.

§ 432.61 Special definitions.

For the purpose of this subpart:

(a) *Finished product* means the final product, such as fresh meat cuts including, but not limited to, steaks, roasts, chops, or boneless meats.

(b) *Meat cutter* means an operation which fabricates, cuts, or otherwise produces fresh meat cuts and related finished products from larger pieces of meat (carcasses or not carcasses), at rates greater than 6000 lbs (2730 kg) per day.

§ 432.62 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that generate no more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.036	0.018
Fecal Coliform	([2])	([2])
O&G [3]	0.012	0.006
TSS	0.044	0.022

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a) of this section; and limitations for COD are as follows.

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.0654	0.0531

[1] Pounds per 1000 lbs (or g/kg) of finished product.

§ 432.63 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: (a) Facilities that generate no more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia	8.0	4.0

[1] mg/L (ppm).

(b) Facilities that generate more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia	0.0165	0.0036
Total Nitrogen	0.0226	0.0093
Total Phosphorus	0.0215	0.0103

[1] mg/L (ppm).

§ 432.65 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: (a) Facilities that generate no more than 50 million pounds per year of finished products:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.030	0.015
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.012	0.006
TSS	0.036	0.018

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.

(b) Facilities that generate more than 50 million pounds per year of finished products:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0165	0.0036
BOD_5	0.0122	0.0058
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.0337	0.0085
Total Nitrogen	0.0226	0.0093
Total Phosphorus	0.0215	0.0103
TSS	0.0062	0.0047

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.

§ 432.67 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.62.

Subpart G—Sausage and Luncheon Meats Processors

§ 432.70 Applicability.

This part applies to discharges of process wastewater resulting from the production of fresh meat cuts, sausage, bologna and other luncheon meats by a sausage and luncheon meat processor.

§ 432.71 Special definitions.

For the purpose of this subpart:

(a) *Finished product* means the final product as fresh meat cuts, which includes steaks, roasts, chops or boneless meat, bacon or other smoked meats (except hams) such as sausage, bologna or other luncheon meats, or related products (except canned meats).

(b) *Sausage and luncheon meat processor* means an operation which cuts fresh meats, grinds, mixes, seasons, smokes or otherwise produces finished products such as sausage, bologna and luncheon meats at rates greater than 6000 lbs (2730 kg) per day.

§ 432.72 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that generate no more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.56	0.28
Fecal Coliform	([2])	([2])
O&G [3]	0.2	0.10
TSS	0.68	0.34

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a) of this section; and limitations for COD are as follows.

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
COD	0.2780	0.2260

[1] Pounds per 1000 lbs (or g/kg) of finished product.

§ 432.73 Effluent limitations attainable by the application of the best available technology economically achievable (BAT)

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: (a) Facilities that generate no more than 50 million pounds per year of finished products: The limitations for ammonia (as N) are the same as specified in § 432.63(a).

(b) Facilities that generate more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia	0.0704	0.0153
Total Nitrogen	0.0965	0.0396
Total Phosphorus	0.0917	0.0439

[1] mg/L (ppm).

§ 432.75 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: (a) Facilities that generate no more than 50 million pounds per year of finished products:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.48	0.24
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.20	0.10
TSS	0.58	0.29

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.

(b) Facilities that generate more than 50 million pounds per year of finished products:

PERFORMANCE STANDARDS (NSPS):

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0704	0.0153
BOD_5	0.0520	0.0245

PERFORMANCE STANDARDS (NSPS):—Continued

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.1430	0.0362
Total Nitrogen	0.0965	0.0396
Total Phosphorus	0.0917	0.0439
TSS	0.0262	0.0201

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.

§ 432.77 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.72.

Subpart H—Ham Processors

§ 432.80 Applicability.

This part applies to discharges of process wastewater resulting from the production of hams, alone or in combination with other finished products, by a ham processor.

§ 432.81 Special definitions.

For the purpose of this subpart:

(a) *Finished products* means the final product as fresh meat cuts, which includes steaks, roasts, chops or boneless meat, smoked or cured hams, bacon or other smoked meats, sausage, bologna or other luncheon meats (except canned meats).

(b) *Ham processor* means an operation producing hams, alone or in combination with other finished products, at rates greater than 6000 lbs (2730 kg) per day.

§ 432.82 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT: (a) Facilities that generate no more than 50 million pounds per year of finished products:

EFFLUENT LIMITATION (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.62	0.31
Fecal Coliform	([2])	([2])
O&G [3]	0.22	0.11
TSS	0.74	0.37

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a) of this section; and limitations for COD are the same as the COD limitations specified in § 432.62(b).

§ 432.83 Effluent limitations attainable by the application of the best available technology economically achievable (BAT)

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT:

(a) Facilities that generate no more than 50 million pounds per year of finished products: The limitations for ammonia (as N) are the same as specified in § 432.63(a).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as specified in § 432.73(b).

§ 432.85 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: (a) Facilities that generate no more than 50 million pounds per year of finished products: The standards for BOD_5, TSS, O&G and Fecal Coliform are the same as the corresponding limitation specified in § 432.82(a).

(b) Facilities that generate more than 50 million pounds per year of finished products: The standards for BOD_5, TSS, O&G (as HEM), Fecal Coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding standard specified in § 432.75(b).

§ 432.87 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.82.

Subpart I—Canned Meats Processors

§ 432.90 Applicability.

This part applies to discharges of process wastewater resulting from the production of canned meats, alone or in combination with any other finished products, by a canned meats processor.

§ 432.91 Special definitions.

For the purpose of this subpart:

(a) *Canned meats processor* means an operation which prepares and cans meats (stew, sandwich spreads, or similar products), alone or in combination with other finished products, at rates greater than 6000 lbs (2730 kg) per day.

(b) *Finished products* means the final product, such as fresh meat cuts which includes steaks, roasts, chops or boneless meat, smoked or cured hams, bacon or other smoked meats, sausage, bologna or other luncheon meats, stews, sandwich spreads or other canned meats.

§ 432.92 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT: (a) Facilities that generate no more than 50 million pounds per year of finished products:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.74	0.37
Fecal Coliform	([2])	([2])
O&G [3]	0.26	0.13
TSS	0.90	0.45

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in paragraph (a) of this section; and limitations for COD are the same as the COD limitations specified in § 432.62(b).

§ 432.93 Effluent limitations attainable by the application of the best available technology economically achievable (BAT)

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: (a) Facilities that generate no more than 50 million pounds per year of finished products: The limitations for ammonia (as N) are the same as specified in § 432.63(a).

(b) Facilities that generate more than 50 million pounds per year of finished products: The limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as specified in § 432.73(b).

§ 432.95 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: (a) Facilities that generate no more than 50 million pounds per year of finished products: The standards for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.92(a).

(b) Facilities that generate more than 50 million pounds per year of finished products: The standards for BOD_5, TSS, O&G (as HEM), Fecal Coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding standard specified in § 432.75(b)

§ 432.97 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.92.

Subpart J—Renderers

§ 432.100 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat meal, dried animal by-product residues (tankage), animal oils, grease and tallow, perhaps including hide curing, by a renderer.

§ 432.101 Special definitions.

For the purpose of this subpart:

(a) *Raw material* (*RM*) means the basic input materials to a renderer composed of animal and poultry trimmings, bones, meat scraps, dead animals, feathers and related usable by-products.

(b) *Renderer* means an independent or off-site rendering operation, which is conducted separate from a slaughterhouse, packinghouse or poultry dressing or processing operation, uses raw material at rates greater than 10 million pounds per year, produces meat meal, tankage, animal fats or oils, grease, and tallow, and may cure cattle hides, but excludes marine oils, fish meal, and fish oils.

(c) *Tankage* means dried animal by-product residues used in feedstuffs.

(d) *Tallow* means a product made from beef cattle or sheep fat that has a melting point of 40°C or greater.

§ 432.102 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.34	0.17
COD	0.184	0.111
Fecal Coliform	([2])	([2])
O&G[3]	0.20	0.10
TSS	0.42	0.21

[1] Pounds per 1000 lbs (or g/kg) of raw material.
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(2) The limitations for BOD_5 and TSS specified in paragraph (a) of this section were derived for a renderer which does no cattle hide curing as part of its operations. If a renderer does conduct hide curing, the following empirical formulas should be used to derive supplemental limitations for BOD_5 and TSS which apply in addition to the corresponding limitation specified in paragraph (a) of this section:

lbs BOD_5/1000 lbs RM = 17.6 × (no. of hides)/lbs RM

kg BOD_5/kkg RM = 8 × (no. of hides)/kg RM

lbs TSS/1000 lbs RM = 24.2 × (no. of hides)/lbs RM
kg TSS/kkg RM = 11 × (no. of hides)/kg RM

§ 432.103 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT:

EFFLUENT LIMITATIONS (BAT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia	0.0194	0.0103

[1] Pounds per 1000 lbs (gm/kg) of raw material (RM).

§ 432.105 New source performance standards (NSPS).

(a) Any new source subject to this subpart must achieve the following performance standards:

PERFORMANCE STANDARDS (NSPS)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0194	0.0103
BOD_5	0.0436	0.0209
Fecal coliform	([2])	([2])
O&G[3]	0.2350	0.0594
TSS	0.1780	0.0887

[1] Pounds per 1000 lbs (gm/kg) of raw material (RM).
[2] Maximum of 400 MPN per 100 ml at any time.
[3] May be measured as hexane extractable material (HEM).

(b) The standards for BOD_5 and TSS specified in paragraph (a) of this section were derived for a renderer which does no cattle hide curing as part of the plant operations. If a renderer does conduct hide curing, the same empirical formulas specified in § 432.102(b) should be used to derive supplemental standards for BOD_5 and TSS which apply in addition to the corresponding standard specified in paragraph (a) of this section.

§ 432.107 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD,5 TSS, O&G and fecal coliform are the same as the corresponding limitation specified in § 432.105(a).

(b) The limitations for BOD_5 and TSS specified in paragraph (a) of this section were derived for a renderer which does no cattle hide curing as part of the plant operations. If a renderer does conduct hide curing, the following empirical formulas should be used to derive supplemental limitations for BOD_5 and TSS which apply in addition to the corresponding limitation specified in paragraph (a) of this section:
lbs BOD_5/1000 lbs RM = 7.9 × (no. of hides)/lbs RM
kg BOD_5/kkg RM = 3.6 × (no. of hides)/kg RM
lbs TSS/1000 lbs RM = 13.6 × (no. of hides)/lbs RM
kg TSS/kkg RM = 6.2 × (no. of hides)/kg RM

Subpart K—Poultry First Processing

§ 432.110 Applicability.

This part applies to discharges of process wastewater resulting from the slaughtering of poultry, further processing of poultry and rendering of material derived from slaughtered poultry.

§ 432.111 Special definitions.

For the purpose of this subpart: *Poultry first processing* means slaughtering of poultry and producing whole, half, quarter or smaller meat cuts. Poultry first processing also includes cutting deboning and grinding of poultry when these operations are performed on site at a slaughtering facility. However, when cutting, deboning and grinding is performed at locations off site, these operations are considered further processing operations.

§ 432.112 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT: (a) Facilities that slaughter no more than 10 million pounds per year (in units of LWK).

(1) Poultry first processing:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.1630	0.0356
BOD_5	0.1200	0.0568
Fecal Coliform	([2])	([2])
O&G (as HEM)	1.330	0.335

EFFLUENT LIMITATIONS (BPT)—Continued

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
TSS	0.2120	0.0991

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.

(2) Further processing of poultry slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0400	0.0087
BOD_5	0.0458	0.0215
O&G (as HEM)	0.5150	0.1290
TSS	0.0623	0.0290

[1] Pounds per 1000 lbs (or g/kg) finished product.

(3) Rendering of by-products from poultry slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (a)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0771	0.0168
BOD_5	0.0324	0.0152
O&G (as HEM)	0.2950	0.0745
TSS	0.2400	0.1120

[1] Pounds per 1000 lbs (or g/kg) raw material.

(b) Facilities that slaughter more than 10 million pounds per year (in units of LWK) (1) Poultry first processing:

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.163	0.0356
BOD_5	0.120	0.0568
Fecal Coliform	([2])	([2])
O&G (as HEM)	1.31	0.33
Total Nitrogen	0.2239	0.0921
Total Phosphorus	0.1760	0.0843
TSS	0.0609	0.0467

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN per 100 ml at any time.

(2) Further processing of poultry slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (b)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0400	0.0087
BOD_5	0.0453	0.0213
O&G (as HEM)	0.2290	0.0579
Total Nitrogen	0.0548	0.0226
Total Phosphorus	0.0431	0.0206
TSS	0.0149	0.0114

[1] Pounds per 1000 lbs (or g/kg) finished product.

(3) Rendering of by-products from poultry slaughtered on site, or at locations off site: The following supplemental limitations apply in addition to the corresponding limitation specified in paragraph (b)(1) of this section:

SUPPLEMENTAL LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0771	0.0168
BOD_5	0.0324	0.0152
O&G (as HEM)	0.1980	0.0500
Total Nitrogen	0.0601	0.0247
Total Phosphorus	0.0472	0.0226
TSS	0.0271	0.0208

[1] Pounds per 1000 lbs (or g/kg) raw material.

§ 432.113 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT: The limitations for Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding limitation specified in § 432.112.

§ 432.115 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: The standards for BOD_5, TSS, O&G (as HEM), Fecal Coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding limitation specified in § 432.112.

§ 432.117 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G (as HEM) and Fecal Coliform are the same as the corresponding limitation specified in § 432.112.

Subpart L—Poultry Further Processing

§ 432.120 Applicability

This part applies to discharges of process wastewater resulting from further processing of poultry.

§ 432.122 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT: (a) Facilities that further process no more than 7 million pounds per year (in units of finished product):

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0400	0.0087
BOD_5	0.0458	0.0215
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.5150	0.1290
TSS	0.0623	0.0290

[1] Pounds per 1000 lbs (or g/kg) of finished product.

[2] Maximum of 400 MPN per 100 ml at any time.

(b) Facilities that further process more than 7 million pounds per year (in units of finished product):

EFFLUENT LIMITATIONS (BPT)

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.0400	0.0087
BOD_5	0.0453	0.0213
Fecal Coliform	([2])	([2])
O&G (as HEM)	0.229	0.0579
Total Nitrogen	0.0548	0.0226
Total Phosphorus	0.0431	0.0206
TSS	0.0149	0.0114

[1] Pounds per 1000 lbs (or g/kg) finished product.

[2] Maximum of 400 MPN per 100 ml at any time.

§ 432.123 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for Fecal Coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding limitation specified in § 432.122.

§ 432.125 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following performance standards: The standards for BOD_5, TSS, O&G (as HEM), Fecal Coliform, Ammonia (as N), Total Nitrogen and Total Phosphorus are the same as the corresponding limitation specified in § 432.122.

§ 432.127 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: The limitations for BOD_5, TSS, O&G (as HEM) and Fecal Coliform are the same as the corresponding limitation specified in § 432.122.

[FR Doc. 02–2838 Filed 2–22–02; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday,
February 25, 2002

Part III

Department of Agriculture

Rural Housing Service

Notice of Funds Availability (NOFA) for section 514 Farm Labor Housing Loans and section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2002; Notice

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability (NOFA) for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2002

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: This NOFA announces the timeframe to submit applications for section 514 Farm Labor Housing loan funds and section 516 Farm Labor Housing grant funds for new construction and acquisition and rehabilitation of off-farm units for farmworker households. Applications may also include requests for section 521 rental assistance (RA) and operating assistance for migrant units. This document describes the method used to distribute funds, the application process, and submission requirements.

DATES: The closing deadline for receipt of all applications in response to this NOFA is 5 p.m., local time for each Rural Development State office on May 28, 2002. The application closing deadline is firm as to date and hour. RHS will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Applicants wishing to apply for assistance must contact the Rural Development State office serving the place in which they desire to locate off-farm labor housing to receive further information and copies of the application package. Rural Development will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with a written acknowledgment of receipt. A listing of Rural Development State offices, their addresses, telephone numbers, and person to contact follows:

Note: Telephone numbers listed are not toll-free.

Alabama State Office, Suite 601, Sterling Center, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3455, TDD (334) 279–3495, James B. Harris

Alaska State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7740, TDD (1–907–786–7786, Deborah Davis

Arizona State Office, Phoenix Corporate Center, 3003 N. Central Ave., Suite 900, Phoenix, AZ 85012–2906, (602) 280–8706, TDD (602) 280–8770, Johnna Vargas

Arkansas State Office, 700 W. Capitol Ave., Rm. 3416, Little Rock, AR 72201–3225, (501) 301–3250, TDD (501) 301–3279, Clinton King

California State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5819, TDD (530) 792–5848, Jeff Deis

Colorado State Office, 655 Parfet Street, Room E100, Lakewood, CO 80215, (303) 236–2801 (ext. 124), TDD (303) 236–1590, Mary Summerfield

Connecticut

Served by Massachusetts State Office

Delaware & Maryland State Office, 5201 South Dupont Highway, PO Box 400, Camden, DE 19934–9998, (302) 697–4353, TDD (302) 697–4303, Pat Baker

Florida & Virgin Islands State Office, 4440 N.W. 25th Place, PO Box 147010, Gainesville, FL 32614–7010, (352) 338–3465, TDD (352) 338–3499, Joseph P. Fritz

Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2164, TDD (706) 546–2034, Wayne Rogers

Guam

Served by Hawaii State Office

Hawaii, Guam, & Western Pacific Territories State Office, Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8309, TDD (808) 933–8321, Thao Khamoui

Idaho State Office, Suite A1, 9173 West Barnes Dr., Boise, ID 83709, (208) 378–5628, TDD (208) 378–5644, LaDonn McElligott

Illinois State Office, 2118 W. Park Ct. Suite A, Champaign, IL 6821–2986, (217) 403–6222, TDD (217) 403–6240, Barry L. Ramsey

Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100 (ext. 423), TDD (317) 290–3343, John Young

Iowa State Office, 873 Federal Building, 210, Walnut Street, Des Moines, IA 50309, (515) 284–4666, TDD (515) 284–4858, Julie Sleeper

Kansas State Office, 1303 SW First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2721, TDD (785) 271–2767, Virginia M. Hammersmith

Kentucky State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (606) 224–7300, TDD (606) 224–7422, Paul Higgins

Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7962, TDD (318) 473–7655, Yvonne R. Emerson

Maine State Office, 444 Stillwater Ave., Suite 2, PO Box 405, Bangor, ME 04402–0405, (207) 990–9110, TDD (207) 942–7331, Michael Grondin

Maryland

Served by Delaware State Office

Massachusetts, Connecticut, & Rhode Island State Office, 451 West Street, Amherst, MA 01002, (413) 253–4333, TDD (413) 253–4590, Donald Colburn

Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5192, TDD (517) 337–6795, Philip Wolak

Minnesota State Office, 410 AgriBank Building, 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7804, TDD (651) 602–7830, Joyce Vondal

Mississippi State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325, TDD (601) 965–5850, Darnella Smith-Murray

Missouri State Office, 1201 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0990, TDD (573) 876–9480, Charles H. Marcks

Montana State Office, Unit 1, Suite B, 900 Technology Blvd., Bozeman, MT 59715, (406) 585–2518, TDD (406) 585–2562, Craig Hildreth

Nebraska State Office, Federal Building, room 152, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5567, TDD (402) 437–5093, Phil Willnerd

Nevada State Office, 1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222 (ext. 13), TDD (775) 885–0633, William L. Brewer

New Hampshire State Office, Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6046, TDD (603) 229–0536, Jim Fowler

New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 Woodland Road, Mt. Holly, NJ 08060, (609) 265–3636, TDD (609) 265–3687, George Hyatt, Jr.

New Mexico State Office, 6200 Jefferson St., NE, Room 255, Albuquerque, NM 87109, (505) 761–4944, TDD (505) 761–4938, Carmen N. Lopez

New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6419, TDD (315) 477–6447, George N. Von Pless

North Carolina State Office, 4405 Bland Road, Suite 2120, Raleigh, NC 271209, (919) 873–2066, TDD (919) 873–2003, Terry Strole

North Dakota State Office, Federal Building, Room 208, 220 East Rosser, PO Box 1737, Bismarck, ND 58502, (701) 530–2049, TDD (701) 530–2113, Kathy Lake

Ohio State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2477, (614) 255–2418, TDD (614) 255–2554, Melodie Taylor

Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1070, TDD (405) 742–1007, Phil Reimers

Oregon State Office, 101 SW Main, Suite 1410, Portland, OR 97204–3222, (503) 414–3325, TDD (503) 414–3387, Margo Donelin

Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, TDD (717) 237–2261, Gary Rothrock

Puerto Rico State Office, New San Juan Office Bldg., Room 501, 159 Carlos E. Chardon Street, Hato Rey, PR 00918–5481, (787) 766–5095 (ext. 254), TDD 1–800–274–1572, Lourdes Colon

Rhode Island

Served by Massachusetts State Office

South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 253–3432, TDD (803) 765–5697, Larry D. Floyd

South Dakota State Office, Federal Building, Room 210, 200 Fourth Street, SW, Huron, SD 57350, (605) 352–1132, TDD (605) 352–1147, Dwight Wullweber

Tennessee State Office, Suite 300, 3322 West End Avenue, Nashville, TN 37203–1084, (615) 783–1300, TDD (615) 783–1397, G. Benson Lasater

Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9755, TDD (254) 742–9712, Eugene G. Pavlat

Utah State Office, Wallace F. Bennett Federal Building, 125 S. State Street, Room 4311, Salt Lake City, UT 84147–0350, (801) 524–4324, TDD (801) 524–3309, Robert L. Milianta

Vermont State Office, City Center, 3rd Floor 89 Main Street, Montpelier, VT 05602, (802) 828–6028, TDD (802) 223–6365, Sandra Mercier

Virgin Islands

Served by Florida State Office

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1547, TDD (804) 287–1753, Eileen Nowlin

Washington State Office, 1011 East Main St., Suite 306, Puyallup, WA 98372–6771, (253) 845–9272 X114, TDD (360) 704–7760, Robert Lund

Western Pacific Territories

Served by Hawaii State Office

West Virginia State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4889, TDD (304) 284–4836, Craig St. Clair

Wisconsin State Office, 4949 Kirschiling Court, Stevens Point, WI 54481, (715) 345–7620 (ext. 7145), TDD (715) 345–7614, Sherry Engel

Wyoming State Office, 100 East B, Federal Building, Room 1005, PO Box 820, Casper, WY 82602, (307) 261–6315, TDD (307) 261–6333, Charles Huff

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Mary Fox, Senior Loan Specialist or David Layfield, Senior Loan Specialist, of the Multi-Family Housing Processing Division, Rural Housing Service, United States Department of Agriculture, Stop 0781, 1400 Independence Avenue, SW, Washington, DC, 20250, telephone (202) 720–1624 or (202) 690–0759 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service).

SUPPLEMENTARY INFORMATION:

Programs Affected

The Farm Labor Housing Program is listed in the Catalog of Federal Domestic Assistance under Number 10.405, Farm Labor Housing Loans and Grants. Rental Assistance is listed in the Catalog under Number 10.427, Rural Rental Assistance Payments.

Definitions

Farm Labor. Farm labor includes services in connection with cultivating the soil, raising or harvesting any agriculture or aquaculture commodity; or in catching, netting, handling, planting, drying, packing, grading, storing, or preserving in its unmanufactured state any agriculture or aquaculture commodity; or delivering to storage, market, or a carrier for transportation to market or to process any agricultural or aquacultural commodity.

Migrant Agricultural Laborers. Agricultural laborers and family dependents who establish a temporary residence while performing agriculture work at one or more locations away from the place they call home or home base. (This does not include day-haul agricultural workers whose travels are limited to work areas within one day of their work locations.)

Off-Farm Labor Housing. Housing for farm laborers regardless of the farm where they work.

Discussion of Notice

I. Authority and Distribution Methodology

A. Authority

The Farm Labor Housing program is authorized by the Housing Act of 1949: Section 514 (42 U.S.C. 1484) for loans and section 516 (42 U.S.C. 1486) for grants. Tenant subsidies (rental assistance (RA)) are available through section 521 (42 U.S.C. 1490a). Sections 514 and 516 provide RHS the authority to make loans and grants for financing off-farm housing to broad-based nonprofit organizations, nonprofit organizations of farmworkers, federally recognized Indian tribes, agencies or political subdivisions of State or local government, public agencies (such as local housing authorities) and with section 514 loans to nonprofit limited partnerships in which the general partner is a nonprofit entity.

B. Distribution Methodology

Because RHS has the ability to adjust loan and grant levels, final loan and grant levels will fluctuate. The estimated funds available for fiscal year (FY) 2002 for off-farm housing are: Section 514 loans, $22,459,099; Section 516 grants, $13,967,000.

C. Section 514 and Section 516 Funds

Section 514 loan funds and section 516 grant funds will be distributed to States based on a national competition, as follows:

1. States will accept, review, and score requests in accordance with 7 CFR part 1944, subpart D. The scoring factors are:

(a) The presence and extent of leveraged assistance, including donated land, for the units that will serve program-eligible tenants, calculated as a percentage of the RHS total development cost (TDC). RHS TDC excludes non-RHS eligible costs such as a developer's fee. Leveraged assistance includes, but is not limited to, funds for hard construction costs, section 8 or other non-RHS tenant subsidies, and state or federal funds. A minimum of ten percent leveraged assistance is required to earn points; however, if the total percentage of leveraged assistance is less than ten percent and the proposal includes donated land, two points will be awarded for the donated land. Points will be awarded in accordance with the following table. (0 to 20 points)

Percentage	Points
75 or more	20
60–74	18
50–59	16

Percentage	Points
40–49	12
30–39	10
20–29	8
10–19	5
0–9	0
Donated land in proposals with less than ten percent total leveraged assistance	2

(b) Seasonal, temporary, migrant housing. (5 points for up to and including 50 percent of the units; 10 points for 51 percent or more.)

(c) The selection criteria contained in 7 CFR 1944, Subpart D includes one optional criteria set by the National Office. This fiscal year, the National office initiative will be used in the selection criteria as follows:

Up to 10 points will be awarded based on the presence of and extent to which a tenant services plan exists that clearly outlines services that will be provided to the residents of the proposed project. These services may include but are not limited to: transportation related services, on-site English as a Second Language (ESL) classes, move-in funds, emergency assistance funds, homeownership counseling, food pantries, after school tutoring, and computer learning centers. Two points will be awarded for each resident service included in the tenant services plan up to a maximum of 10 points. Plans must detail how the services are to be administered, who will administer them, and where they will be administered. All tenant service plans must include letters of intent that clearly state the service that will be provided at the project for the benefit of the residents from any party administering each service, including the applicant. (0 to 10 points)

2. States will conduct preliminary eligibility review, score applications, and forward to the National Office.

3. The National office will rank all requests nationwide and distribute funds to States in rank order, within funding and RA limits. If insufficient funds or RA remain for the next ranked proposal, the Agency will select the next ranked proposal that falls within the remaining levels. In case of point-score ties in the National ranking, first preference will be given to a preapplication to develop units in a state that does not have existing RHS-financed off-farm LH units; second preference to a preapplication will be from a State that has not yet been selected in the current funding cycle. In the event there are multiple preapplications in either category, one preapplication from each State (the highest State-ranked) will compete by computer-based random lottery. If necessary, the process will be completed until all same-pointed preapplications are selected or funds are exhausted.

II. Funding Limits

A. Individual requests may not exceed $3 million (total loan and grant).

B. No State may receive more than 30 percent of the total available funds unless an exception is granted from the Administrator.

C. Rental Assistance and Operating Assistance will be held in the National Office for use with section 514 loans and section 516 grants and will be awarded based on each project's financial structure and need.

III. Application Process

All applications for sections 514 and 516 funds must be filed with the appropriate Rural Development State office and must meet the requirements of 7 CFR part 1944, subpart D, and section IV of this NOFA. Incomplete applications will not be reviewed and will be returned to the applicant. No application will be accepted after 5 pm, local time, on May 28, 2002, unless date and time is extended by another Notice published in the **Federal Register**.

IV. Application Submission Requirements

A. Each application shall include all of the information, materials, forms and exhibits required by 7 CFR part 1944, subpart D, as well as comply with the provisions of this NOFA. Applicants are encouraged, but not required, to include a checklist and to have their applications indexed and tabbed to facilitate the review process. The Rural Development State office will base its determination of completeness of the application and the eligibility of each applicant on the information provided in the application.

B. Applicants are advised to contact the Rural Development State office serving the place in which they desire to submit an application for application information.

Dated: February 15, 2002.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 02–4329 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability (NOFA) for the Section 515 Rural Rental Housing Program for Fiscal Year 2002

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: This NOFA announces the timeframe to submit applications for section 515 Rural Rental Housing (RRH) loan funds and section 521 Rental Assistance (RA) for new construction, including applications for the nonprofit set-aside for eligible nonprofit entities, the set-aside for the most Underserved Counties and Colonias (Cranston-Gonzalez National Affordable Housing Act), and the set-aside for Empowerment Zones and Enterprise Communities (EZ/ECs) and Rural Economic Area Partnership (REAP) communities. This document describes the methodology that will be used to distribute funds, the application process, submission requirements, and areas of special emphasis or consideration.

DATES: The closing deadline for receipt of all applications, including those for the set-asides, in response to this NOFA is 5:00 p.m., local time for each Rural Development State office on April 26, 2002. The application closing deadline is firm as to date and hour. RHS will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Applicants wishing to apply for assistance must contact the Rural Development State office serving the place in which they desire to submit an application for rural rental housing to receive further information and copies of the application package. Rural Development will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with a written acknowledgment of receipt. A listing of Rural Development State offices, their addresses, telephone numbers, and person to contact follows:

Note: Telephone numbers listed are not toll-free.

Alabama State Office, Suite 601, Sterling Centre, 4121 Carmichael Road, Montgomery, AL 36106–3683,

(334) 279–3455, TDD (334) 279–3495, James B. Harris
Alaska State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7740, TDD (907) 761–8905, Deborah Davis
Arizona State Office, Phoenix Corporate Center, 3003 N. Central Ave., Suite 900, Phoenix, AZ 85012–2906, (602) 280–8765, TDD (602) 280–8706, Johnna Vargas
Arkansas State Office, 700 W. Capitol Ave., Room 3416, Little Rock, AR 72201–3225, (501) 301–3250, TDD (501) 301–3279, Cathy Jones
California State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5819 or, (530) 792–5830, TDD (530) 792–5848, Jeff Deiss
Colorado State Office, 655 Parfet Street, Room E100, Lakewood, CO 80215, (720) 544–2922, TDD (720) 544–2976, ''Sam'' Mitchell

Connecticut

Served by Massachusetts State Office

Delaware and Maryland State Office, 5201 South Dupont Highway, PO Box 400, Camden, DE 19934–9998, (302) 697–4353, TDD (302) 697–4303, Pat Baker
Florida & Virgin Islands State Office, 4440 N.W. 25th Place, Gainesville, FL 32614–7010, (352) 338–3465, TDD (352) 338–3499, Joseph P. Fritz
Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2164, TDD (706) 546–2034, Wayne Rogers

Guam

Served by Hawaii State Office

Hawaii and Western Pacific State Office, Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8309, TDD (808) 933–8321, Thao Khamoui
Idaho State Office, Suite A1, 9173 West Barnes Dr., Boise, ID 83709, (208) 378–5630, TDD (208) 378–5644, LaDonn McElligott
Illinois State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6222, TDD (217) 403–6240, Barry L. Ramsey
Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100 (ext. 423), TDD (317) 290–3343, John Young
Iowa State Office, 873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4666, TDD (515) 284–4858, Julie Sleeper
Kansas State Office, 1303 SW First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2721, TDD (785) 271–2767, Virginia M. Hammersmith
Kentucky State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7325, TDD (859) 224–7422, Paul Higgins
Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7962, TDD (318) 473–7655, Yvonne R. Emerson
Maine State Office, 967 Illinois Ave., Suite 4, PO Box 405, Bangor, ME 04402–0405, (207) 990–9110, TDD (207) 942–7331, Dale D. Holmes

Maryland

Served by Delaware State Office

Massachusetts, Connecticut, & Rhode Island State Office, 451 West Street, Amherst, MA 01002, (413) 253–4333, TDD (413) 253–4590, Donald Colburn
Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5192, TDD (517) 337–6795, Philip Wolak
Minnesota State Office, 410 AgriBank Building, 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7804, TDD (651) 602–7830, Joyce Vondal
Mississippi State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325, TDD (601) 965–5850, Darnella Smith-Murray
Missouri State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0990, TDD (573) 876–9301, Charlie Marcks
Montana State Office, Unit 1, Suite B, 900 Technology Blvd., Bozeman, MT 59715, (406) 585–2551, TDD (406) 585–2562, Deborah Chorlton
Nebraska State Office, Federal Building, Room 152, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5594, TDD (402) 437–5093, Phil Willnerd
Nevada State Office, 1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222 (ext. 13), TDD (775) 885–0633, William L. Brewer
New Hampshire State Office, Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6062, TDD (603) 229–0536, Jim Fowler
New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 Woodland Road, Mt. Holly, NJ 08060, (609) 265–3636, TDD (609) 265–3687, George Hyatt, Jr.
New Mexico State Office, 6200 Jefferson St., NE, Room 255, Albuquerque, NM 87109, (505) 761–4944, TDD (505) 761–4938, Carmen N. Lopez
New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6419, TDD (315) 477–6447, George N. Von Pless
North Carolina State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2066, TDD (919) 873–2003, Terry Strole
North Dakota State Office, Federal Building, Room 208, 220 East Rosser, PO Box 1737, Bismarck, ND 58502, (701) 530–2049, TDD (701) 530–2113, Kathy Lake
Ohio State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2477, (614) 255–2418, TDD (614) 255–2554, Melodie Taylor
Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1070, TDD (405) 742–1007, Phillip F. Reimers
Oregon State Office, 101 SW Main, Suite 1410, Portland, OR 97204–3222, (503) 414–3325, TDD (503) 414–3387, Bill Daniel
Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, TDD (717) 237–2261, Gary Rothrock
Puerto Rico State Office, 654 Munoz Rivera Avenue, IBM Plaza, Suite 601, Hato Rey, PR 00918, (787) 766–5095 (ext. 249), TDD (787) 766–5332, Lourdes Colon

Rhode Island

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South Dakota State Office, Federal Building, Room 210, 200 Fourth Street, SW., Huron, SD 57350, (605) 352–1132, TDD (605) 352–1147, Dwight Wullweber
Tennessee State Office, Suite 300, 3322 West End Avenue, Nashville, TN 37203–1084, (615) 783–1375, TDD (615) 783–1397, G. Benson Lasater
Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9755, TDD (254) 742–9712, Eugene G. Pavlat
Utah State Office, Wallace F. Bennett Federal Building, 125 S. State Street, Room 4311, Salt Lake City, UT 84147–0350, (801) 524–4324, TDD (801) 524–3309, Robert L. Milianta
Vermont State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6028, TDD (802) 223–6365, Sandra Mercier

Virgin Islands

Served by Florida State Office

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1547, TDD (804) 287–1753, Eileen Nowlin
Washington State Office, Puyallup Executive Park, 1011 E. Main, Suite

306, Puyallup, WA 98372–6771, (253) 845–9272 (ext. 5), TDD (253) 845–0553, Robert Lund

Western Pacific Territories

Served by Hawaii State Office

West Virginia State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4889, TDD (304) 284–4836, Craig St. Clair

Wisconsin State Office 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7615 (ext. 151), TDD (715) 345–7614, Sherry Engel

Wyoming State Office, 100 East B, Federal Building, Room 1005, PO Box 820, Casper, WY 82602, (307) 261–6315, TDD (307) 261–6333, Charles Huff

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Linda Armour, Senior Loan Officer, Multi-Family Housing Processing Division, Rural Housing Service, United States Department of Agriculture, Stop 0781, 1400 Independence Avenue, SW, Washington, DC 20250, telephone (202) 720–1753 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service).

SUPPLEMENTARY INFORMATION:

Programs Affected

The Rural Rental Housing program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans. Rental Assistance is listed in the Catalog under Number 10.427, Rural Rental Assistance Payments.

Discussion of Notice

I. Authority and Distribution Methodology

A. Authority

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) provides RHS with the authority to make loans to any individual, corporation, association, trust, Indian tribe, public or private nonprofit organization, consumer cooperative, or partnership to provide rental or cooperative housing and related facilities in rural areas for very-low, low, or moderate income persons or families, including elderly persons and persons with disabilities. Rental assistance (RA) is a tenant subsidy for very-low and low-income families residing in rural rental housing facilities with RHS financing and may be requested with applications for such facilities.

B. Distribution Methodology

The total amount available for FY 2002 for section 515 is $114,068,998, of which $49,000,000 is available for new construction as follows:

Section 515 new construction funds	$16,715,502
Set-aside for nonprofits	10,266,209
Set-aside for Underserved Counties and Colonias	5,703,450
Set-aside for EZ, EC, and REAP Zones	14,814,839
State Rental Assistance (RA) Designated reserve	1,500,000

C. Section 515 New Construction Funds

For fiscal year 2002 the Administrator has determined that it would not be practical to allocate funds to States because of funding limitations; therefore, section 515 new construction funds will be distributed to States based on a National competition, as follows:

1. States will accept, review, score, and rank requests in accordance with 7 CFR part 1944, subpart E. The scoring factors are:

(a) The presence and extent of leveraged assistance for the units that will serve RHS income-eligible tenants at basic rents comparable to those if RHS provided full financing, computed as a percentage of the RHS total development cost (TDC). RHS TDC excludes non-RHS eligible costs such as a developer's fee. The required applicant contribution is not considered leveraged assistance. Leveraged assistance includes loans and grants from other sources, contributions from the applicant above the required contribution indicated by the Sources and Uses Comprehensive Evaluation (available from the Rural Development State Office) and tax abatements or other savings in operating costs provided that, at the end of the abatement period when the benefit is no longer available, the basic rents are comparable to or lower than the basic rents if RHS provided full financing. Loan proposals that include secondary funds from other sources that have been requested but have not yet been committed will be processed as follows: The proposal will be scored based on the requested funds, provided (1) the applicant includes evidence of a filed application for the funds; and (2) the funding date of the requested funds will permit processing of the loan request in the current funding cycle, or, if the applicant does not receive the requested funds, will permit processing of the next highest ranked proposal in the current year. Points will be awarded in accordance with the following table. (0 to 20 points)

Percentage of leveraging	Points
75 or more	20
70–74	19
65–69	18
60–64	17
55–59	16
50–54	15
45–49	14
40–44	13
35–39	12
30–34	11
25–29	10
20–24	9
15–19	8
10–14	7
5–9	6
0–4	0

(b) The units to be developed are in a colonia, tribal land, EZ, EC, or REAP community, or in a place identified in the State Consolidated Plan or State Needs Assessment as a high need community for multifamily housing. (20 points)

(c) In states where RHS has an on-going formal working relationship, agreement, or Memorandum of Understanding (MOU) with the State to provide State resources (State funds, State RA, HOME funds, CDBG funds, or Low-Income Housing Tax Credits) for RHS proposals; or where the State provides preference or points to RHS proposals in awarding such State resources, 20 points will be provided to loan requests that include such State resources in an amount equal to at least 5 percent of the total development cost. Native American Housing and Self Determination Act (NAHASDA) funds may be considered a State Resource if the Tribal Plan for NAHASDA funds contains provisions for partnering with RHS for multifamily housing. (National office initiative)

(d) The loan request includes donated land meeting the provisions of 7 CFR 1944.215(r)(4). (5 points)

2. The National office will rank all requests nationwide and distribute funds to States in rank order, within funding and RA limits. If insufficient funds or RA remain for the next ranked proposal, the Agency will select the next ranked proposal that falls within the remaining levels. Point score ties will be handled as follows: The highest ranked same-pointed proposal from each State will be selected, followed by the second highest ranked proposal, and so on, until funds are exhausted. If there are insufficient funds to select the highest ranked proposal from each State, selection will be made by lottery.

D. Applications That Do Not Require New Construction Rental Assistance (RA)

For fiscal year 2002 limited new construction RA is available. Therefore, the Agency is inviting applications to develop units in markets that do not require RA. The market study for non-RA proposals must clearly demonstrate a need and demand for the units by prospective tenants at income levels that can support the proposed rents without tenant subsidies. The proposed units must offer amenities that are typical for the market area at rents that are comparable to conventional rents in the market for similar units.

E. Set-asides

Loan requests will be accepted for the following set-asides:

1. Nonprofit set-aside. An amount of $10,266,209 has been set aside for nonprofit applicants. All loan proposals must be in designated places in accordance with 7 CFR part 1944, subpart E. A State or jurisdiction may receive one proposal from this set-aside, which cannot exceed $1 million. A State could get additional funds from this set-aside if any funds remain after funding one proposal from each participating State. If there are insufficient funds to fund one loan request from each participating State, selection will be made by point score. If there are any funds remaining, they will revert to the National office reserve. Funds from this set-aside will be available only to nonprofit entities, which may include a partnership that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary which will be receiving low-income housing tax credits authorized under section 42 of the Internal Revenue Code of 1986. To be eligible for this set-aside, the nonprofit entity must be an organization that:

(a) Will own an interest in the project to be financed and will materially participate in the development and the operations of the project;

(b) Is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986;

(c) Has among its purposes the planning, development, or management of low-income housing or community development projects; and

(d) Is not affiliated with or controlled by a for-profit organization.

2. Underserved counties and colonias set-aside. An amount of $5,703,450 has been set aside for loan requests to develop units in the 100 most needy underserved counties or colonias as defined in section 509(f) of the Housing Act of 1949.

3. EZ, EC, and REAP set-aside. An amount of $14,814,839 has been set aside to develop units in EZ, EC, or REAP communities. Loan requests that are eligible for this set-aside may also be eligible for regular section 515 funds as a high-need community. The state must indicate on the list submitted to the National office if the request is eligible for the EZ, EC, and REAP set-aside and regular section 515 funds. If requests for this set-aside exceed available funds, selection will be made by point score.

II. Funding Limits

A. Individual loan requests may not exceed $1 million. This applies to regular section 515 funds and set-aside funds. The Administrator may make an exception to this limit in cases where a State's average total development costs exceed the National average by 50 percent or more.

B. No State may receive more than $2.5 million, including set-asides funds.

III. Rental Assistance (RA)

New construction RA will be held in the National office for use with section 515 Rural Rental Housing loans. RA may be requested by applicants, except for non-RA requests in accordance with section I.D. above.

IV. Application Process

All applications for section 515 new construction funds must be filed with the appropriate Rural Development State office and must meet the requirements of 7 CFR part 1944, subpart E and section V of this NOFA. Incomplete applications will not be reviewed and will be returned to the applicant. No application will be accepted after 5:00 p.m., local time, on the application deadline previously mentioned unless that date and time is extended by a Notice published in the **Federal Register**.

V. Application Submission Requirements

A. Each application shall include all of the information, materials, forms and exhibits required by 7 CFR part 1944, subpart E as well as comply with the provisions of this NOFA. Applicants are encouraged, but not required, to include a checklist and to have their applications indexed and tabbed to facilitate the review process. The Rural Development State office will base its determination of completeness of the application and the eligibility of each applicant on the information provided in the application.

B. Applicants are advised to contact the Rural Development State office serving the place in which they desire to submit an application for the following:

1. Application information and

2. List of designated places for which applications for new section 515 facilities may be submitted.

VI. Areas of Special Emphasis or Consideration

A. The selection criteria contained in 7 CFR part 1944, subpart E includes two optional criteria, one set by the National Office and one by the State office. This fiscal year, the National Office initiative will be used in the selection criteria as follows: In states where RHS has an on-going formal working relationship, agreement, or Memorandum of Understanding (MOU) with the State to provide State resources (State funds, State RA, HOME funds, CDBG funds, or LIHTC) for RHS proposals; or where the State provides preference or points to RHS proposals in awarding these State Resources, 20 points will be provided to loan requests that include such State resources in an amount equal to at least 5 percent of the total development cost. Native American Housing and Self Determination Act (NAHASDA) funds may be considered a State Resource if the Tribal Plan for NAHASDA funds contains provisions for partnering with RHS for multifamily housing. No State selection criteria will be used this fiscal year.

B. $10,266,209 is available nationwide in a set-aside for eligible nonprofit organizations as defined in 42 U.S.C. 1485(w).

C. $5,703,450 is available nationwide in a set-aside for the 100 most Underserved Counties and Colonias.

D. $14,814,839 is available nationwide in a set-aside for EZ, EC, and REAP communities.

E. $1,500,000 is available nationwide in a reserve for States with viable State Rental Assistance (RA) programs. In order to participate, States are to submit specific written information about the State RA program, i.e., a memorandum of understanding, documentation from the provider, etc., to the National Office.

Dated: February 15, 2002.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 02–4330 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability (NOFA) for section 533 Housing Preservation Grants

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. The HPG program is a grant program which provides qualified public agencies, private nonprofit organizations, and other eligible entities grant funds to assist very low- and low-income homeowners repair and rehabilitate their homes in rural areas, and to assist rental property owners and cooperative housing complexes to repair and rehabilitate their units if they agree to make such units available to low- and very low-income persons. This action is taken to comply with Agency regulations found in 7 CFR part 1944, subpart N, which require the Agency to announce the opening and closing dates for receipt of preapplications for HPG funds from eligible applicants. The intended effect of this Notice is to provide eligible organizations notice of these dates.

DATES: The closing deadline for receipt of all applications in response to this NOFA is 5 p.m., local time for each Rural Development State office on May 28, 2002. The application closing deadline is firm as to date and hour. RHS will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Applicants wishing to apply for assistance must contact the Rural Development State office serving the place in which they desire to submit an application to receive further information and copies of the application package. Rural Development will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with a written acknowledgment of receipt. A listing of Rural Development State offices, their addresses, telephone numbers, and person to contact follows:

Note: Telephone numbers listed are not toll-free.

Alabama State Office, Suite 601, Sterling Centre, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3455, TDD (334) 279–3495, James B. Harris

Alaska State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7740, TDD (907) 761–8905, Deborah Davis

Arizona State Office, Phoenix Corporate Center, 3003 N. Central Ave., Suite 900, Phoenix, AZ 85012–2906, (602) 280–8765, TDD (602) 280–8706, Johnna Vargas

Arkansas State Office, 700 W. Capitol Ave., Rm. 3416, Little Rock, AR 72201–3225, (501) 301–3250, TDD (501) 301–3279, Cathy Jones

California State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5819 or, (530) 792–5830, TDD (530) 792–5848, Millie Manzanedo or Jeff Deiss

Colorado State Office, 655 Parfet Street, Room E100, Lakewood, CO 80215, (720) 544–2922, TDD (720) 544–2976, ''Sam'' Mitchell

Connecticut

Served by Massachusetts State Office

Delaware and Maryland State Office, 5201 South Dupont Highway, PO Box 400, Camden, DE 19934–9998, (302) 697–4353, TDD (302) 697–4303, Pat Baker

Florida & Virgin Islands State Office, 4440 N.W. 25th Place, Gainesville, FL 32614–7010, (352) 338–3465, TDD (352) 338–3499, Joseph P. Fritz

Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2164, TDD (706) 546–2034, Wayne Rogers

Guam

Served by Hawaii State Office

Hawaii and Western Pacific State Office, Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8309, TDD (808) 933–8321, Thao Khamoui

Idaho State Office, Suite A1, 9173 West Barnes Dr., Boise, ID 83709, (208) 378–5630, TDD (208) 378–5644, LaDonn McElligott

Illinois State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6222, TDD (217) 403–6240, Barry L. Ramsey

Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100 (ext. 423), TDD (317) 290–3343, John Young

Iowa State Office, 873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4493, TDD (515) 284–4858, Bruce McGuire

Kansas State Office, 1303 SW First American Place Ste 100, Topeka, KS 66604–4040, (785) 271–2721, TDD (785) 271–2767, Virginia M. Hammersmith

Kentucky State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7325, TDD (859) 224–7422, Paul Higgins

Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7962, TDD (318) 473–7655, Yvonne R. Emerson

Maine State Office, 967 Illinois Ave., Suite 4, PO Box 405, Bangor, ME 04402–0405, (207) 990–9110, TDD (207) 942–7331, Dale D. Holmes

Maryland

Served by Delaware State Office

Massachusetts, Connecticut, & Rhode Island State Office, 451 West Street, Amherst, MA 01002, (413) 253–4333, TDD (413) 253–4590, Donald Colburn

Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5192, TDD (517) 337–6795, Philip Wolak

Minnesota State Office, 410 AgriBank Building, 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7804, TDD (651) 602–7830, Joyce Vondal

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New Hampshire State Office, Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6062, TDD (603) 229–0536, Jim Fowler

New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 Woodland Road, Mt. Holly, NJ 08060, (609) 265–3636, TDD (609) 265–3687, George Hyatt, Jr.

New Mexico State Office, 6200 Jefferson St., NE, Room 255, Albuquerque, NM 87109, (505) 761–4944, TDD (505) 761–4938, Carmen N. Lopez

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Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1070, TDD (405) 742–1007, Phil Reimers

Oregon State Office, 101 SW Main, Suite 1410, Portland, OR 97204–3222, (503) 414–3325, TDD (503) 414–3387, Bill Daniel

Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, TDD (717) 237–2261, Gary Rothrock

Puerto Rico State Office, 654 Munoz Rivera Avenue, IBM Plaza, Suite 601, Hato Rey, PR 00918, (787) 766–5095 (ext. 249), TDD (787) 766–5332, Lourdes Colon

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South Dakota State Office, Federal Building, Room 210, 200 Fourth Street, SW., Huron, SD 57350, (605) 352–1132, TDD (605) 352–1147, Dwight Wullweber

Tennessee State Office, Suite 300, 3322 West End Avenue, Nashville, TN 37203–1084, (615) 783–1375, TDD (615) 783–1397, G. Benson Lasater

Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9755, TDD (254) 742–9712, Eugene G. Pavlat

Utah State Office, Wallace F. Bennett Federal Building, 125 S. State Street, Room 4311, Salt Lake City, UT 84147–0350, (801) 524–4324, TDD (801) 524–3309, Robert L. Milianta

Vermont State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6028, TDD (802) 223–6365, Sandra Mercier

Virgin Islands

Served by Florida State Office

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1547, TDD (804) 287–1753, Eileen Nowlin

Washington State Office, Puyallup Executive Park, 1011 E. Main, Suite 306, Puyallup, WA 98372–6771, (253) 845–9272 (ext. 5), TDD (253) 845–0553, Robert Lund

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Wyoming State Office, 100 East B, Federal Building, Room 1005, PO Box 820, Casper, WY 82602, (307) 261–6315, TDD (307) 261–6333, Charles Huff

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Tracee Lilly, Senior Loan Officer, Multi-Family Housing Processing Division, Rural Housing Service, United States Department of Agriculture, Stop 0781, 1400 Independence Avenue, SW, Washington, DC 20250, telephone (202) 720–1604 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service).

SUPPLEMENTARY INFORMATION:

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.433, Rural Housing Preservation Grants. This program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V). Applicants are referred to 7 CFR 1944.674 and 1944.676(f), (g), and (h) for specific guidance on these requirements relative to the HPG program.

Application Requirements

7 CFR part 1944, subpart N provides details on what information must be contained in the preapplication package. Entities wishing to apply for assistance should contact the Rural Development State office to receive further information, the State allocation of funds, and copies of the preapplication package. Eligible entities for these competitively awarded grants include state and local governments, nonprofit corporations, Federally recognized Indian Tribes, and consortia of eligible entities.

Funding Information

The funding instrument for the HPG program will be a grant agreement. The term of the grant can vary from 1 to 2 years, depending on available funds and demand. No maximum or minimum grant levels have been established at the National level. You should contact the State office to determine the allocation and the State maximum grant level, if any. For FY 2002, $7,982,000 is available for the Housing Preservation Grant Program. A set aside of $600,000 has been established for grants located in Empowerment Zones, Enterprise Communities, and REAP Zones and $6,600,000 has been distributed under a formula allocation to States pursuant to 7 CFR part 1940, subpart L, ''Methodology and Formulas for Allocation of Loan and Grant Program Funds''. Decisions on funding will be based on preapplications.

Dated: February 15, 2002.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 02–4331 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Availability of Funding and Requests for Proposals for Guaranteed Loans Under the Section 538 Guaranteed Rural Rental Housing Program

AGENCY: Rural Housing Service, USDA.

ACTION: Notice of fund availability.

Required Responses From: Eligible Lenders for Multi-Family Lending.

Program Offers: Loan Guarantees and Interest Credits for Rural Housing.

SUMMARY: This Notice of Fund Availability (NOFA or Notice) announces the timeframe, submission requirements and deadlines to submit proposals in the form of ''NOFA responses'' for the section 538 Guaranteed Rural Rental Housing Program (GRRHP)for the Fiscal Year (FY) 2002 allocation of $99.77 million. This Notice describes the commitment of program dollars, eligibility requirements, lender responsibilities, and the overall NOFA and application processes.

The GRRHP operates under 7 CFR part 3565. The GRRHP Origination and Servicing Handbook (HB–1–3565) is available to provide lenders and the

general public with guidance on program administration. HB–1–3565, which contains a copy of 7 CFR part 3565 in Appendix 1, can be found at the Rural Development regulation web site address http://rdinit.usda.gov/regs.

Eligible lenders are invited to submit NOFA responses for the development of affordable rental housing to serve rural America. The Rural Housing Service (RHS) will review responses submitted by eligible lenders, on the lender's letterhead, and signed by both the prospective borrower and lender. Although a complete application is not required in response to the NOFA, eligible lenders may submit a complete application concurrently with the NOFA response. The submission of a complete application will not affect the scoring process.

DATES: The FY 2002 program dollars will be allocated through a continuous selection process. The RHS will review all NOFA responses through May 16, 2002. Reviews will take place on an on-going basis. Those responses that are selected that subsequently submit complete applications and meet all federal environmental requirements will receive commitments until all funds are expended. A notice will be placed in the **Federal Register** when all funds are committed for FY 2002. NOFA responses received after May 16, 2002 will be held for review subject to the availability of funds.

Eligible lenders intending to mail a NOFA response or application must provide sufficient time to permit delivery to the NOFA submission address on or before the closing deadline date and time. Acceptance by a U.S. Post Office or private mailer does not constitute delivery. Postage due NOFA responses and applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: Arlene Nunes, Senior Loan Specialist, Guaranteed Loans, Multi-Family Housing Processing Division, U.S. Department of Agriculture, South Agriculture Building, Room 1271, STOP 0781, 1400 Independence Avenue, SW, Washington, DC 20250–0781. E-mail: anunes@rdmail.rural.usda.gov. Telephone: (202) 401–2307. This number is not toll-free. Hearing or speech-impaired persons may access that number by calling the Federal Information Relay Service toll-free at (800) 877–8339.

Eligiblity of Prior Year Selected NOFA Responses: NOFA responses selected in FY 2001 are eligible for FY 2002 program dollars subject to the availability of funds. FY 2001 NOFA responses selected by RHS for submission of a complete application may submit an application for competition for FY 2002 funding without completing a FY 2002 NOFA response. All qualified applications will be funded on a first come basis until all program funds are exhausted. RHS will commit and obligate funds only to lenders that submit a complete application including all federal environmental documents required by 7 CFR 1940 subpart G, Form RD 3565–1, ''Application for Loan and Guarantee'' and the 2,500 dollar application fee.

General Program Information

Program Purpose: The section 538 Guaranteed Rural Rental Housing Program is designed to increase the supply of affordable multi-family housing through partnerships between the RHS and major lending sources, as well as state and local housing finance agencies and bond issuers.

Qualifying Properties: Qualifying properties include new construction for multi-family housing units or acquisition of existing structures with rehabilitation of at least 15,000 dollars per unit.

Eligible Financing Sources: Any form of Federal, state, and conventional sources of financing can be used in conjunction with the loan guarantee, including Home Investment Partnership Program (HOME) grant funds, tax exempt bonds, and low income housing tax credits.

Maximum Guarantee: The maximum guarantee for a permanent loan will be 90 percent of the unpaid balance and interest on the loan. The maximum guarantee on a construction loan will be 90 percent of the work in place, which have credit enhancements, or up to 90 percent of the amount actually advanced by the lender, whichever is less.

Reimbursement of Losses: Any losses will be split on a pro-rata basis between the lender and the RHS from the first dollar lost.

Interest Rate: RHS will accept the best rate negotiated between the lender and prospective borrower indexed to the 10-year Treasury Bond Yield. However, priority points will be given for interest rates less than 300 basis points over the 10-Year Treasury Bond Yield. Interest rates must be fixed over the term of the loan.

Interest Credit: RHS will award interest credit to at least 20 percent of the loans made under the program. If 20 percent of the loans have not received interest credit by May 16, 2002, then RHS will award interest credit to those loans that initially requested interest credit and have the highest interest credit priority score until at least 20% of the loans have received interest credit. Requests for interest credit must be made in the NOFA response. Lenders are not permitted to make requests for interest credit after the selection process has taken place.

Due to limited funding and in order to distribute Interest Credit assistance as broadly as possible, the Agency has decided to limit the interest credit to $1.5 million per loan. For example, if an eligible request were made for interest credit on a loan of $2.5 million, up to $1.5 million of the loan would receive interest credit and $1 million would be originated at the note rate. Interest credit is not available for construction loans. Interest credit is only available for permanent loans. Lenders with projects that are viable with or without interest credit are encouraged to submit a NOFA response reflecting financial and market feasibility under both funding options. NOFA responses requesting consideration under both options will not affect interest credit selection. However, once the interest credit funds are exhausted, only those NOFA responses requesting consideration under both funding options or the Non-Interest Credit option will be further considered.

Due to limited interest credit funds and the responsibility of RHS to target and give priority to rural areas most in need, NOFA responses requesting interest credit must score a minimum of 65 points under the criteria established in this NOFA. In the event of ties, selection between responses will be by lot.

Surcharges for Guarantee of Construction Advances: There is no surcharge for the guarantee of construction advances for FY 2002.

Program Fees for FY 2002: The following information stipulates the program fees.

(1) There is an initial guarantee fee of 1 percent of the total guarantee amount, which will be due when the loan guarantee is issued. In the case of a combination construction and permanent loan guarantee, the 1 percent initial fee will be paid when the construction loan note guarantee is issued. For purposes of calculating this fee, the guarantee amount is the product of the percentage of the guarantee times the initial principal amount of the guaranteed loan.

(2) There is an annual renewal fee of 0.5 percent of the outstanding principal and interest of the loan. This fee will be collected annually on January 1st of each calendar year.

(3) There is no fee for site assessment and market analysis or preliminary feasibility in FY 2002.

(4) There is a non-refundable application fee of $2,500 when the application is submitted.

(5) There is a flat fee of $500 when a lender requests RHS to extend the term of a guarantee commitment.

(6) There is a flat fee of $500 when a lender requests RHS to extend a guarantee commitment after the period of the commitment lapses.

(7) There is a flat fee of $1,250 when a lender requests RHS to approve the transfer of property and assumption of the loan to an eligible prospective borrower.

(8) There is no lender application fee for lender approval in FY 2002.

Eligible Lenders: An eligible lender for the section 538 Guaranteed Loan Housing Program as required by 7 CFR 3565.102 must be a licensed business entity or Housing Finance Agency in good standing in the state or states where it conducts business. Lender eligibility requirements are contained in 7 CFR part 3565, subpart C, section 3565.102 ''Lender Eligibility''. Below is a list of eligible lenders under 7 CFR 3565.102:

(1) A licensed business entity that meets the qualifications and has the approval of the Secretary of Housing and Urban Development (HUD) to make multi-family housing loans that are insured under the National Housing Act. A complete list of HUD approved lenders can be found in the HUD Web site at *www.hud.gov.*

(2) A licensed business entity that meets the qualifications and has the approval of the Freddie Mac or Fannie Mae corporations to make multi-family housing loans that are sold to the same corporations. A complete list of Freddie Mac approved lenders can be found in Freddie Mac's web site at *www.freddiemac.com.* Fannie Mae approved lenders are found at *www.fanniemae.com.*

(3) A state or local Housing Finance Authority (HFA) with a top-tier rating from Moody's or Standard & Poors, or member of the Federal Home Loan Bank system, and the demonstrated ability to underwrite, originate, process, close, service, manage, and dispose of multi-family housing loans in a prudent manner.

(4) Be a GRRHP approved lender, defined as an entity with an executed multi-family housing Lender's Agreement with RHS.

(5) Lenders that can demonstrate the capacity to underwrite, originate, process, close, service, manage, and dispose of multi-family housing loans. In order to be approved the lender will have to have an acceptable level of financial soundness as determined by a lender rating service. The submission of materials demonstrating capacity will be required if the lender's NOFA response is selected.

Lenders who are otherwise ineligible may become eligible if they maintain a correspondent relationship with an eligible lender that does have the capacity to underwrite, originate, process, close, service, manage, and dispose of multi-family housing loans. In this case, the eligible lender must submit the NOFA response and application. All contractual and legal documentation will be signed between RHS and the lender that submitted the NOFA response and application.

RHS Lender Approval Application: Lenders whose NOFA responses are selected will be notified by the RHS to submit a request for RHS lender approval application within 30 days of notification. Lenders that have received RHS lender approval in the past and are in good standing do not need to reapply for RHS lender approval.

Submission of Documentation for RHS Lender Approval: All lenders that have not yet received RHS lender approval must submit a complete application for RHS lender approval. As RHS does not have a formal application form, a complete application will consist of a cover letter requesting RHS lender approval and the following documentation:

(1) a request for RHS lender approval on the lender's letterhead;

(2) Lenders who are HUD, Freddie Mac or Fannie Mae multi-family approved lenders are required to show evidence of this status, such as a copy of a letter designating the distinction.

(3) The lender's Loan Origination, Loan Servicing and Portfolio Management Handbooks. These handbooks should detail the lender's policies and procedures on loan origination through termination for multi-family loans;

(4) Portfolio performance data;

(5) Copies of standard documents that will be used in processing GRRHP loans;

(6) Resumes and qualifications of key personnel that will be involved in the GRRHP;

(7) Identification of standards and processes that deviate from those outlined in the GRRHP Origination and Servicing Handbook (HB–1–3565) found at *http://rdinit.usda.gov/regs;*

(8) A copy of the most recent audited financial statements;

(9) Lender specific information including: (a) Legal name and address, (b) list of principal officers and their responsibilities, (c) certification that the officers and principals of the lender have not been debarred or suspended from Federal programs, (d) Form AD 1047, ''Certification Regarding Debarment and Suspension,'' (e) certification that the lender is not in default or delinquent on any Federal debt or loan, or possess an outstanding finding of deficiency in a federal housing program, and (f) certification of the lender's credit rating;

(10) Documentation on bonding and insurance; and

(11) Certification that computer systems comply with year 2000 technology.

RHS Lender Approval Requirements: Lenders who request RHS lender approval must meet the standards stipulated in the 7 CFR part 3565, subpart C, section 3565.103 ''Approval Requirements.''

Lender Responsibilities: Lenders will be responsible for the full range of loan origination, underwriting, management, servicing, compliance issues and property disposition activities associated with their projects. The lender will be expected to provide guidance to the prospective borrower on the RHS requirements during the application phase. Once the guarantee is issued, the lender is expected to service each loan it underwrites or contract these services to another capable entity.

Discussion of Notice

Content of NOFA Responses: All NOFA responses require lender information and project specific data. Incomplete responses will not be considered for funding. Lenders will be notified of incomplete NOFA responses. Complete NOFA responses are to include a signed cover letter from the lender on the lender's letterhead and the following information:

(1) Lender Information

A. Lender certification—The lender must certify that the lender will make a loan to the prospective borrower for the proposed project, under specified terms and conditions subject to the issuance of the RHS guarantee. Lender certification must be on the lender's letterhead and signed by both the lender and the prospective borrower.

(2) Project Specific Data

A. The lender must submit the project specific data below on the lender's letterhead, signed by both the lender and the prospective borrower.

Lender Name	Insert the lender's name
Lender Tax ID #	Insert lender's tax ID #
Lender Contact Name	Name of the lender contact for Loan
Mailing Address	Lender's complete mailing address
Phone #	Phone # for lender contact
Fax #	Insert lender's fax #
E-mail Address	Insert lender contact e-mail address
Borrower Name and Organization Type	State whether borrower is a Limited Partnership, Corporation, Indian Tribe, etc.
Tax Classification Type	State whether borrower is for profit, not for profit, etc.
Borrower Tax ID #	Insert borrower's tax ID #
Borrower Address, including County	Insert borrower's address and county
Borrower Phone #	Insert borrower's phone #
Principal or Key Member for the Borrower	Insert name and title
Borrower Information and Statement of Housing Development Experience	Attach relevant information
New Construction or Acquisition or Repair or Rehabilitation of at Least $15,000 Per Unit	State whether the project is new construction or acquisition or repair or rehabilitation
Project Location Town or City	Town or city in which the project is located
Project County	County in which the project is located
Project State	State in which state the project is located
Project Zip Code	Insert zip code
Project Congressional District	Congressional District for project location
Project Name	Insert project name
Project Type	Family, senior (all residents over 55), or mixed
Property Description and Proposed Development Schedule	Provide as an attachment
Total Project Development Cost	Enter amount for total project
# of Units	Insert the # of units in the project
Cost Per Unit	Total development cost divided by # of units
Bedroom Mix	# of units by # of bedrooms
Rent	Proposed rent structure
Median Income for Community	Provide median income for the community
Evidence of Site Control	Attach relevant information
Description of Any Environmental Issues	Attach relevant information
Loan Amount	Insert the loan amount
Interest Credit (IC)	Is interest credit requested for this loan (Yes or No)?

Interest Rate (for interest credit requests only)	Lenders seeking interest credit must provide the interest rate. Priority points will be awarded to projects requesting interest credit for interest rates less than 300 basis points over the 10-year treasury bond yield
If Above Is Yes, Should Proposal Be Considered Under Non–IC Selection, If IC Funds Are Exhausted?	If Yes, proposal must show financial feasibility for NON–IC consideration.
Borrower's Proposed Equity	Insert amount.
Tax Credits	Will the project be allocated tax credits? How much? What is the estimated value of the tax credits awarded?
Other Sources of Funds	List all funding sources.
Loan to Value	Guaranteed loan divided by value of project.
Debt Coverage Ratio	Net Operating Income divided by debt service payments.
Percentage of Guarantee	Percentage guarantee requested.
Collateral	Attach relevant information.
Empowerment Zone (EZ) or Enterprise Community (EC)	Yes or No? Is the project in a recognized EZ or EC?
Colonia or Tribal Lands	Is the project in a Colonia or on an Indian Reservation? Yes or No?
Population	Must be within the 20,000 population limit set for the program.
Is a Guarantee for Construction Being Requested? Are Advances Being Requested?	State yes or no. The Agency will guarantee construction advances, only as part of a combination construction and permanent loan.
Loan Term	Up to a 40-year amortized loan Balloon mortgage with a minimum 25-year term are eligible.

Scoring of Priority Criteria for Selection of Projects with Interest Credit Requests: RHS will allocate points to projects with requests for interest credit. Projects with no interest credit request will be reviewed for eligibility and viability on a continuous basis and without any priority selection criteria.

The seven priority criteria for projects with requests for interest credit are listed below.

Priority 1—Projects located in rural communities with the smallest populations.

Score for Priority 1—Projects with the lowest populations will receive the highest points.

Population size	Points
0–1,000 people	20
1,001–2,000 people	19
2,001–3,000 people	18
3,001–4,000 people	17
4,001–5,000 people	16
5,001–6,000 people	15
6,001–7,000 people	14
7,001–8,000 people	13
8,001–9,000 people	12
9,001–10,000 people	11
10,001–11,000 people	10
11,001–12,000 people	9
12,001–13,000 people	8
13,001–14,000 people	7
14,001–15,000 people	6
15,001–16,000 people	5
16,001–17,000 people	4
17,001–18,000 people	3
18,001–19,000 people	2
19,001–20,000 people	1

Priority 2—The RHS will award points for projects with 3–5 bedroom units.

Score for Priority 2—The RHS will score the projects with the 3–5 bedroom units as follows:

No. of 3–5 bedroom units	Points
More than 15	20
10–15	15
5–9	10
1–4	5

Priority 3—The most needy communities as determined by the median income from the most recent census data will receive points.

Score for Priority 3—The RHS will allocate points to projects located in communities having the lowest median income. Points for median income will be awarded as follows:

Median income (dollars)	Points
Less than $25,000	20
$25,000–$29,999	15
$30,000–$34,999	10
$35,000–$40,000	5
More than $40,000	0

Priority 4—Projects that demonstrate partnering and leveraging in order to develop the maximum number of units and promote partnerships with state and local communities will also receive points.

Score for Priority 4—The RHS will award points as follows:

Loan to value ratio (percentage %)	Points
More than 75	10
70–75	15
Less than 70	20

Priority 5—RHS will award points for interest rates less above the 10-Year Treasury Bond Yield as follows:

SCORE FOR PRIORITY 5

Interest rate	Points
300 basis points or more, inclusive	−20
299 to 200 basis points, inclusive	5
199 to 100 basis points, inclusive	10

SCORE FOR PRIORITY 5—Continued

Interest rate	Points
99 to 50 basis points, inclusive	15
Less than 50 basis points, inclusive	20

Priority 6—The development of projects on Tribal Lands, or in an Empowerment Zone or Enterprise Community will receive points.

Score for Priority 6—The RHS will attribute 20 points to projects that are developed in any of the locations described in priority 6.

Priority 7—The development of projects in a Colonia or in a place identified in the State's Consolidated Plan or State Needs Assessment as a high need community for multi-family housing will receive points.

Score for Priority 7—The RHS will attribute 20 points to projects that are developed in any of the locations described in priority 7.

NOFA Submission Address: Eligible lenders will send the NOFA responses to: Director, Multi-Family Housing Processing Division, Rural Housing Service, U.S. Department of Agriculture, Room 1263, STOP 0781, 1400 Independence Avenue, SW, Washington, DC 20250–0781. Responses for participation in the program must be identified as ''Section 538 Guaranteed Rural Rental Housing Program'' on the envelope.

Notifications: NOFA responses will be reviewed for completeness and eligibility. The RHS will notify those lenders whose NOFA responses are selected via letter. The RHS will request lenders without RHS lender approval to apply for RHS lender approval within 30 days upon receipt of notification of selection. For information regarding RHS Lender Approval, please refer to section SUBMISSION OF DOCUMENTATION FOR RHS LENDER APPROVAL in this NOFA. Requests for RHS lender approval should be sent to the person and address listed in the NOFA SUBMISSION ADDRESS section in this NOFA.

Lenders will also be invited to submit a complete application and the required application fee of $2,500 to the Rural Development State Office where the project is located.

Submission of GRRHP Applications: Notification letters will instruct lenders to contact the Rural Development State Office immediately following notification of selection to schedule required agency reviews. Rural Development State Office addresses can be found in the USDA web site, www.usda.gov, under the Rural Development program area.

Rural Development State Office staff will work with lenders in the development of the complete application. Applications must include; (1) The appropriate level of environmental review in accordance with 7 CFR part 1940, subpart G, (2) the Civil Rights Impact Analysis Certification, (3) intergovernmental review (7 CFR part 3015, subpart V), and (4) appropriate flood insurance coverage as stipulated in 7 CFR part 1806 subpart B.

The deadline for the submission of a complete application and fee is 90 days from the date of notification of NOFA selection. If the application and fee are not submitted within 90 days from the date of notification, the selection is subject to cancellation, thereby allowing another NOFA response that is ready to proceed with processing to be selected.

Obligation of Program Funds: The RHS will only obligate funds to projects that undergo a satisfactory environmental review in accordance with the National Environmental Protection Act (NEPA).

Conditional Commitment: Once the complete application and application fee are received and all NEPA requirements have been met, the Rural Development State Office will issue a conditional commitment, which stipulates the conditions that must be met for the issuance of a guarantee, in accordance with 7 CFR part 3565, subpart G, section 3565.303. Once the conditional commitment is issued the funds are obligated to the lender.

Issuance of Guarantee: The RHS will issue a guarantee to the lender for a project in accordance with 7 CFR part 3565, subpart G, section 3565.303 ''Issuance of Loan Guarantee.'' No guarantee can be issued without a complete application, review of appropriate certifications, satisfactory assessment of the appropriate level of environmental review, and the completion of any conditional requirements.

Dated: February 15, 2002.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 02–4332 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Availability of Funds; Multi-Family Housing, Single Family Housing

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces the availability of housing funds for fiscal year 2002 (FY 2002). This action is taken to comply with 42 U.S.C. 1490p, which requires that RHS publish in the **Federal Register** notice of the availability of any housing assistance.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: For information regarding this notice contact Teresa Sumpter, Loan Specialist, Single Family Housing Direct Loan Division, telephone 202–720–1485, Stop 0783, for single family housing (SFH) issues and Tammy S. Daniels, Loan Specialist, Multi-Family Housing Processing Division, telephone 202–720–0021, Stop 0781 for multi-family housing (MFH) issues, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250. (The telephone numbers listed are not toll free numbers). For information on applying for assistance, visit our Internet Web site at *www.rurdev.usda.gov/recd__map.html* and select your State or check the blue pages in your local telephone directory under ''Rural Development'' for the office serving your area. Also attached for information purposes is a listing of Rural Development State Directors, State Office addresses and phone numbers.

SUPPLEMENTARY INFORMATION:

Programs Affected

The following programs are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials. These programs or activities are listed in the Catalog of Federal Domestic Assistance under Nos.

10.405 Farm Labor Housing (LH) Loans and Grants
10.410 Very Low to Moderate Income Housing Loans
10.411 Rural Housing Site Loans and Self-Help Housing Land Development Loans
10.415 Rural Rental Housing Loans
10.417 Very Low Income Housing Repair Loans and Grants
10.420 Rural Self-Help Housing Technical Assistance
10.427 Rural Rental Assistance Payments
10.433 Rural Housing Preservation Grants
10.442 Housing Application Packaging Grants

Discussion of Notice

Part 1940, subpart L of 7 CFR contains the ''Methodology and Formulas for

Allocation of Loan and Grant Program Funds.'' To apply for assistance under these programs or for more information, contact the Rural Development Office for your area. Separate guidance has been provided to our State offices for assistance available in our Multi- and Single-Family Housing programs as follows:

Multi-Family Housing (MFH)

I. General

A. This provides guidance on MFH funding for the Rural Rental Housing program (RRH) for FY 2002 (does not include carryover funds). Allocation computations have been performed in accordance with 7 CFR 1940.575 and 1940.578. For FY 2002, State Directors, under the Rural Housing Assistance Grants (RHAG), will have the flexibility to transfer their initial allocations of budget authority between the Single Family Housing (SFH) section 504 Rural Housing Grants and section 533 Housing Preservation Grant (HPG) programs.

B. MFH loan and grant levels for FY 2002 are as follows:

MFH Loan Programs Credit Sales: $1,778,515

Section 514 Farm Labor Housing (LH) loans: *$28,459,099

Section 515 Rural Rental Housing (RRH) loans: *$114,068,998

Section 521 Rental Assistance (RA) and 502(c)(5)(C) Advance: *$701,004,000

Section 516 LH grants: *$17,967,000

Section 525 Technical and Supervisory Assistance grants (TSA) and 509 Housing Application Packaging grants: $1,415,977

(HAPG) (Shared between single and multi-family housing): (includes carryover)

Section 533 Housing Preservation grants (HPG): *$7,982,000

Section 538 Guaranteed Rural Rental Housing program: *$99,770,992

* Does not include disaster or regular program carryover.

II. Funds Not Allocated to States

A. *Credit Sales Authority.* For FY 2002, $1,778,515 will be set aside for credit sales to program and nonprogram buyers. Credit sale funding will not be allocated by State.

B. *Section 538 Guaranteed Rural Rental Housing Program.* Guaranteed loan funds will be made available under a Notice of Funding Availability (NOFA) being published in the **Federal Register**. Additional guidance will be provided at that time.

III. Farm Labor Housing (LH) Loans and Grants.

The Administrator has the authority to transfer funds between the two programs. Upon NOFA closing the Administrator will evaluate the responses and determine proper distribution of funds between loans and grants.

A. Section 514 Farm LH Loans

1. These loans are funded in accordance with 7 CFR 1940.579(a).

FY 2002 Appropriation: $28,459,099

Available for Off-Farm Loans: $22,459,099

Available for On-Farm Loans: $2,500,000

National Office Reserve: $3,500,000

2. Off-farm loan funds will be made available under a NOFA being published in the **Federal Register**. Additional guidance will be provided in the NOFA.

B. Section 516 Farm LH Grants

1. Grants are funded in accordance with 7 CFR 1940.579(b). Unobligated prior year balances and cancellations will be added to the amount shown.

FY 2002 Appropriation: $17,967,000

Available for LH Grants for Off-Farm: $13,967,000

Available for Technical Assistance Grants: $1,500,000

National Office Reserve: $2,500,000

2. Labor Housing grant funds for Off-Farm will be made available under a NOFA being published in this **Federal Register**. Additional guidance will be provided in the NOFA.

C. Labor Housing Rental Assistance (RA) will be held in the National Office for use with LH loan and grant applications. RA is only available with an LH loan of at least 5 percent of the total development cost. Projects without a LH loan cannot receive RA.

IV. Section 515 RRH Loan Funds

FY 2002 section 515 Rural Rental Housing allocation (Total): $114,068,998

New Construction funds and set-asides: $49,000,000

New construction loans: $16,715,502

Set-aside for nonprofits: $10,266,209

Set-aside for underserved counties and colonias: $5,703,450

Earmark for EZ, EC, or REAP Zones: $14,814,839

State RA designated reserve: $1,500,000

Rehab and repair funds and equity: $55,000,000

Rehab and repair loans: $50,000,000

Designated equity loan reserve: $5,000,000

General Reserve: $10,068,998

A. *New construction loan funds.* New construction loan funds will be made available using a national NOFA being published in the **Federal Register**. Upon closing of the NOFA, States will submit a list, in rank order of the eligible projects.

B. *National Office New Construction Set-asides.* The following legislatively mandated set-asides of funds are part of the National office set-aside:

1. *Nonprofit Set-aside.* An amount of $10,266,209 has been set aside for nonprofit applicants. All Nonprofit loan proposals must be located in designated places as defined in RD Instruction 1944–E.

2. *Underserved Counties and Colonias Set-Aside.* An amount of $5,703,450 has been set aside for loan requests to develop units in the underserved 100 most needy counties or colonias as defined in section 509(f) of the Housing Act of 1949 as amended. Priority will be given to proposals to develop units in colonias or tribal lands.

3. *EZ, EC or REAP Zone Earmark.* An amount of $14,814,839 has been earmarked for loan requests to develop units in EZ or EC communities or REAP Zones until June 30, 2002.

C. *Rental Assistance (RA).* Limited new construction RA will be held in the National office for use with section 515 Rural Rental Housing loans.

D. *Designated Reserves for State RA.* An amount of $1.5 million of section 515 loan funds has been set aside for matching with projects in which an active State sponsored RA program is available. The State RA program must be comparable to the RHS RA program.

E. *Repair and Rehabilitation Loans.* Tenant health and safety continues to be the top priority. Repair and rehabilitation funds must be first targeted to RRH facilities that have physical conditions that affect the health and safety of tenants and subsequently made available to facilities that have deferred maintenance. All funds will be held in the National office and will be distributed based upon indicated rehabilitation needs in the MFH survey conducted in October 2001.

F. *Designated Reserve for Equity Loans.* An amount of $5 million has been designated for the equity loan preservation incentive described in RH Instruction 1965–E. The $5 million will be further divided into $4 million for equity loan requests currently on the pending funding list and $1 million to facilitate the transfer of properties from for-profit owners to nonprofit corporations and public bodies. Funds for such transfers would be authorized

only for for-profit owners who are currently on the pending funding list who agree to transfer to nonprofit corporations or public bodies rather than to remain on the pending list. If insufficient transfer requests are generated to utilize the full $1 million set aside for nonprofit and public body transfers, the balance will revert to the existing pending equity loan funding list.

G. *General Reserve.* There is one general reserve fund of $10,068,998. Some examples of immediate allowable uses include, but are not limited to, hardships and emergencies, RH cooperatives or group homes, or RRH preservation.

V. Section 533 Housing Preservation Grants (HPG).

Total Available: $7,982,000
Less General reserve: $782,000
Less Earmark for EZ, EC, or REAP Zones: $600,000
Total Available for Distribution: $6,600,000

Amount available for allocation. See end of this Notice for HPG State allocations. Fund availability will be announced in a NOFA being published in the **Federal Register**.

The amount of $600,000 is earmarked for EZ, EC or REAP Zones until June 30, 2002.

Single Family Housing (SFH)

I. General

All SFH programs are administered through field offices. For more information or to make application, please contact the Rural Development office servicing your area. To locate these offices, contact the appropriate State Office from the attached State Office listing, visit our web site at *www.rurdev.usda.gov/recd__map.html* or check the blue pages in your local telephone directory under ''Rural Development'' for the office serving your area.

A. This notice provides SFH allocations for FY 2002. Allocation computations have been made in accordance with 7 CFR 1940.563 through 1940.568. Information on basic formula criteria, data source and weight, administrative allocation, pooling of funds, and availability of the allocation are located on a chart at the end of this notice.

B. The SFH levels authorized for FY 2002 are as follows:

Section 502 Guaranteed Rural Housing (RH) loans
Nonsubsidized Guarantees: $3,137,968,750
Section 502 Direct RH loans
Very low-income subsidized loans: $475,133,131
Low-income subsidized loans: $604,714,893
Credit sales (Nonprogram): $10,000,000
Section 504 housing repair loans: $32,324,929
Section 504 housing repair grants: ***$30,053,395
Section 509 compensation for construction defects: **$574,204
Section 523 mutual and self-help housing grants **: ***$56,055,462
Section 523 Self-Help Site Loans: $5,000,000
Section 524 RH site loans: $5,090,909
Section 306C Water and waste disposal grants: **$1,458,569
Section 525 Supervisory and technical assistance and section 509 Housing Application:
Packaging Grants Total Available for single and multi-family: **$1,415,977
North Carolina Elderly Demonstration Program
Modular Home Loans: **$1,961,244
Modular Home Grants: **$3,998,627
Natural disaster funds (Section 502 loans): **$2,274,638
Natural disaster funds (Section 504 loans): **$13,462,253
Natural disaster funds (Section 504 grants): **$5,035,979

*Includes $600,000 for EZ/EC and REAP communities until June 30, 2002.

**Carryover funds are included in the balance.

***Includes $1,000,000 for EZ/EC and REAP communities until June 30, 2002.

c. *SFH Funding Not Allocated to States.* The following funding is not allocated to States by formula. Funds are made available to each state on a case-by-case basis.

1. *Credit sale authority.* Credit sale funds in the amount of $10,000,000 are available only for nonprogram sales of Real Estate Owned (REO) property.

2. *Section 509 Compensation for Construction Defects.* $574,204 is available for compensation for construction defects.

3. *Section 523 Mutual and Self-Help Technical Assistance Grants.* $56 million is available for section 523 Mutual and Self-Help Technical Assistance Grants. Of these funds, $1 million is earmarked for EZ, EC or REAP Zones until June 30, 2002. A technical review and analysis must be completed by the Technical and Management Assistance (T&MA) contractor on all predevelopment, new, and existing (refunding) grant applications.

4. *Section 523 Mutual and Self-Help Site Loans and Section 524 RH Site Loans.* $5,000,000 and $5,090,909 are available for section 523 Mutual Self-Help and Section 524 RH Site loans, respectively.

5. *Section 306C WWD Grants to Individuals in Colonias.* The objective of the section 306C WWD individual grant program is to facilitate the use of community water or waste disposal systems for the residents of the colonias along the U.S.-Mexico border.

The total amount available to Arizona, California, New Mexico, and Texas will be $1,458,569 for FY 2002. This amount includes the carryover unobligated balance of $458,569 and the transferred amount of $1 million from the Rural Utilities Service (RUS) to RHS for processing individual grant applications.

6. *Section 525 Technical and Supervisory Assistance (TSA) and Section 509 Housing Application Packaging Grants (HAPG).* $998,000 of new funds and $417,977 of carryover funds from previous years remain available for the TSA and HAPG programs. The 29 eligible States under HAPG that have active grantees operating will be able to access up to $5,000 for section 502 or 504 loan and grant programs in order to continue operations. Reserve requests will be considered on a first-come, first-served basis.

7. *North Carolina Elderly Demonstration Program.* Budget authority was earmarked in FY 2001 for the North Carolina Elderly Demonstration Program. These funds were used to provide Section 502 loans and grants in North Carolina for very low- and low-income elderly families who lost their housing as a result of a major disaster declared by the President. Unobligated funds have been carried over into FY 2002 for this demo program. These funds will remain available until they are exhausted.

8. *Natural Disaster Funds.* Funds are available until exhausted to those States with active Presidential Declarations.

9. *Deferred Mortgage Payment Demonstration.* There is no FY 2002 funding provided for deferred mortgage authority or loans for deferred mortgage assumptions.

D. *Contingency Reserve.* For the Section 502 direct and Section 504 loan and grant programs, a 5 percent contingency reserve will be held in the National Office pending a potential rescission of funds which may be used to offset federal outlays to address the tragic events of September 11, 2001. If no rescession occurs, these funds will be distributed to the States based upon the allocation formula.

II. State allocations

A. Section 502 Nonsubsidized Guaranteed RH (GRH) Loans

1. *Amount Available for Allocation.*

Total Available: $3,137,968,750
Less National Office General Reserve: $700,348,107
Less Special Outreach Area Reserve: $300,120,643
Basic Formula—Administrative Allocation: $2,137,500,000

2. *National Office General Reserve.* The Administrator may restrict access to this reserve for States not meeting their goals in special outreach areas.

3. *Special Outreach Areas.* FY 2002 GRH funding is allocated to States in two funding streams (70/30) similar to the 60/40 income split for direct SFH funds. Seventy percent of GRH funds may be used in any eligible area. Thirty percent of GRH funds are to be used in special outreach areas. Special outreach areas are counties with median incomes at or below the State's nonmetropolitan median income. Each funding stream will independently be subject to pooling.

4. *National Office Special Area Outreach Reserve.* A special outreach area reserve fund has been established at the National office. Funds from this reserve may only be used in special outreach areas.

B. Section 502 Direct RH Loans

1. *Amount Available for Allocation.*

Total Available: $1,079,848,024
Less Required Set Aside for:
Underserved Counties and Colonias: $53,992,401
EZ, EC and REAP Earmark: $38,000,000
Less 5% contingency: $53,000,000
Less General Reserve: $145,000,623
Administrator's Reserve: $30,000,623
Hardships & Homelessness: $3,500,000
Rural Housing Demonstration Program: $1,500,000
Homeownership Partnership: $95,000,000
Program funds for the sale of REO properties: $15,000,000
Less Designated Reserve for Self-Help: $110,000,000
Basic Formula Administrative Allocation: $679,855,000

2. *Reserves.*

a. *State Office Reserve.* State Directors must maintain an adequate reserve to fund the following applications:

(i) Hardship and homeless applicants including the direct section 502 loan and section 504 loan and grant programs.

(ii) Mutual Self-Help loans.

(iii) Subsequent loans for essential improvements or repairs and transfers with assumptions.

(iv) Financing for the purchase of program REOs when the National office reserve has been exhausted.

(v) States will leverage an amount equal to 25 percent of their initial low-income allocation and 5 percent of their initial very low-income allocation with funding from other sources. For example, if a State receives an initial low-income allocation of $900,000 the amount to be leveraged from other sources would be $225,000 ($900,000 × 25 percent) for a total RHS and other funding source of $1,125,000 ($900,000 + $225,000).

(vi) Areas targeted by the State according to its strategic plan.

b. *National Office Reserves.*

(i) *General Reserve.* The National office has a general reserve of $145 million. Of this amount, the Administrator's reserve is $30 million. One of the purposes of the Administrator's reserve will be for loans in Indian Country. Indian Country is defined as land inside the boundaries of Indian reservations, communities made up mainly of Native Americans, Indian trust and restricted land, and tribal allotted lands. The remaining reserves will be established as follows:

(ii) *Hardship and Homelessness Reserve.* $3.5 million has been set aside for hardships and homeless.

(iii) Rural Housing Demonstration Program. $1.5 million has been set aside for innovative demonstration initiatives.

(iv) Program credit sales. $20 million has been set aside for program sales of REO property.

(c) *Homeownership Partnership.* $95 million has been set aside for Homeownership Partnerships. These funds will be used to expand existing partnerships and create new partnerships, such as the following:

(i) Department of Treasury, Community Development Financial Institutions (CDFI)—Funds will be available to fund leveraged loans made in partnership with the Department of Treasury CDFI participants.

(ii) Partnership initiatives established to carry out the objectives of the rural home loan partnership (RHLP).

(d) *Designated Reserve for Self-Help.* $110 million has been set aside for matching funds to assist participating Self-Help applicants. The matching funds were established on the basis of the National office contributing 75 percent from the National office reserve and States contributing 25 percent of their allocated section 502 RH funds.

(e) *Underserved Counties and Colonias.* An amount of $53,992,401 has been set aside for the 100 underserved counties and colonias.

(f) *Empowerment Zone (EZ) and Enterprise Community (EC) or Rural Economic Area Partnership (REAP) earmark.* An amount of $38,000,000 has been earmarked until June 30, 2002, for loans in EZ, EC or REAP Zones. Further information will follow.

(g) *State Office Pooling.* If pooling is conducted within a State, it must not take place within the first 30 calendar days of the first, second, or third quarter. (There are no restrictions on pooling in the fourth quarter.)

(h) *Suballocation by the State Director.* The State Director may suballocate to each area office using the methodology and formulas required by 7 CFR part 1940, subpart L. If suballocated to the area level, the Rural Development Manager will make funds available on a first-come, first-served basis to all offices at the field or area level. No field office will have its access to funds restricted without the prior written approval of the Administrator.

B. *Section 504 Housing Loans and Grants.* Section 504 grant funds are included in the Rural Housing Assistance Grant program (RHAG) in the FY 2002 appropriation.

1. *Amount available for allocation.*

Section 504 Loans

Total Available: $32,324,929
Less 5% for 100 Underserved Counties and Colonias: $1,616,247
EZ, EC or REAP Zone Earmark: $1,200,000
Less 5% contingency: $1,600,000
Less General Reserve: $1,500,682
Basic Formula—Administrative Allocation: $26,408,000

Section 504 Grants

Total Available: $30,053,395
Less 5% for 100 Underserved Counties and Colonias: $1,496,700
Less EZ, EC or REAP Earmark: $600,000
Less 5% contingency: $1,400,000
Less General Reserve: $1,619,395
Basic Formula-Administrative Allocation: $24,937,300

2. *Reserves and Set-asides.*

a. *State Office Reserve.* State Directors must maintain an adequate reserve to handle all anticipated hardship applicants based upon historical data and projected demand.

b. *Underserved Counties and Colonias.* Approximately $1.6 million and $1.5 million have been set aside for the 100 underserved counties and colonias until June 30, 2002, for the section 504 loan and grant programs, respectively.

c. *Empowerment Zone (EZ) and Enterprise Community (EC) or Rural Economic Area Partnership (REAP)*

Earmark (Loan Funds Only). Approximately $1.2 million and $600,000 have been earmarked through June 30, 2002, for EZ, EC or REAPs for the section 504 loan and grant programs, respectively.

d. *General Reserve.* $1.5 million for section 504 loan hardships and $1.6 million for section 504 grant extreme hardships have been set-aside in the general reserve. For section 504 grants, an extreme hardship case is one requiring a significant priority in funding, ahead of other requests, due to severe health or safety hazards, or physical needs of the applicant.

INFORMATION ON BASIC FORMULA CRITERIA, DATA SOURCE AND WEIGHT, ADMINISTRATIVE ALLOCATION, POOLING OF FUNDS, AND AVAILABILITY OF THE ALLOCATION

No.	Description	Section 502 non-subsidized guaranteed RH loans	Section 502 direct RH loans	Section 504 loans and grants
1	Basic formula criteria, data source, and weight	See 7 CFR 1940.563(b)	See 7 CFR 1940.565(b)	See 7 CFR 1940.566(b) and 1940.567(b).
2	Administrative Allocation: Western Pacific Area	$1,000,000	$1,000,000	$1,000,000 loan $500,000 grant.
3	Pooling of funds:			
	a. Mid-year pooling	If necessary	If necessary	If necessary.
	b. Year-end pooling	August 16, 2002	August 16, 2002	August 16, 2002.
	c. Underserved counties and colonias	N/A	June 30, 2002	June 30, 2002.
	d. EZ, EC or REAP	N/A	June 30, 2002	June 30, 2002.
	e. Credit sales	N/A	June 30, 2002	N/A.
4	Availability of the allocation:			
	a. first quarter	50 percent	50 percent	50 percent.
	b. second quarter	75 percent	70 percent	70 percent.
	c. third quarter	90 percent	90 percent	90 percent.
	d. fourth quarter	100 percent	100 percent	100 percent.

1. Data derived from the 1990 U.S. Census was provided to each State by the National office on August 12, 1993.
2. Due to the absence of Census data.
3. All dates are tentative and are for the close of business (COB). Pooled funds will be placed in the National office reserve and made available administratively. The Administrator reserves the right to redistribute funds based upon program performance.
4. Funds will be distributed cumulatively through each quarter listed until the National office year-end pooling date.

Dated: February 15, 2002.

James C. Alsop,

Acting Administrator, Rural Housing Service.

BILLING CODE 3410–XV–P

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USDA Rural Development State Directors and State Office Locations

Page 1

ALABAMA	ALASKA	ARIZONA
Mr. Steve Pelham	Mr. Bill Allen	Mr. Eddie Browning
Sterling Centre	Suite 201	Phoenix Corporate Center
4121 Carmichael Road, Suite 601	800 W Evergreen	3003 N Central Avenue, Suite 900
Montgomery, AL 36106-3683	Palmer, AK 99645-6539	Phoenix, AZ 85012-2906
(334) 279-3400	(907)761-7705	(602) 280-8700
ARKANSAS	**CALIFORNIA**	**COLORADO**
Mr. Lawrence McCullough (Acting)	Mr. Charles Clendenin, Acting	Ms. Gigi Dennis
Room 3416	Agency 4169	Room E100
700 W Capitol	430 G Street	655 Parfet Street
Little Rock, AR 72201-3225	Davis, CA 95616-4169	Lakewood, CO 80215
(501) 301-3200	(530) 792-5800	(720) 544-2903
DELAWARE & MARYLAND	**FLORIDA & VIRGIN ISLANDS**	**GEORGIA**
Ms. Marlene B. Elliott	Mr. Glenn Walden (Acting)	Mr. F. Stone Workman
PO Box 400	PO Box 147010	Stephens Federal Building
5201 S DuPont Highway	4440 NW 25th Place	355 E Hancock Avenue
Camden, DE 19934-9998	Gainesville, FL 32614-7010	Athens, GA 30601-2768
(302) 697-4300	(352) 338-3400	(706) 546-2162
HAWAII	**IDAHO**	**ILLINOIS**
Ms. Lorraine Pualani Shin	Mr. Michael A. Field	Mr. Douglas Wilson
Room 311, Federal Building	Suite A1	2118 W. Park Court
154 Waianuenue Avenue	9173 W Barnes Dr	Suite A
Hilo, HI 96720	Boise, ID 83709	Champaign, IL 61821
(808)933-8309	(208) 378-5600	(217) 403-6222
INDIANA	**IOWA**	**KANSAS**
Mr. Robert White	Daniel N. Brown, Ph.D>	Mr. Charles "Chuck" R. Banks
5975 Lakeside Boulevard	873 Federal Bldg	P.O. Box 4653
Indianapolis, IN 46278	210 Walnut Street	1200 SW Executive Drive
(317) 290-3100	Des Moines, IA 50309	Topeka, KS 66604
	(515) 284-4663	(785) 271-2700
KENTUCKY	**LOUISIANA**	**MAINE**
Mr. Kenneth Slone	Mr. Michael Taylor	Mr. Michael W. Aube
Suite 200	3727 Government Street	PO Box 405
771 Corporate Drive	Alexandria, LA 71302	444 Stillwater Avenue, Suite 2
Lexington, KY 40503	(318) 473-7920	Bangor, ME 04402-0405
(859) 224-7300		(207) 990-9106
MASSACHUSETTS, CONN, R. ISL.	**MICHIGAN**	**MINNESOTA**
Mr. David H. Tuttle	Ms. Joanne C. DeVuyst	Mr. Stephen G. Wenzel
451 West Street	Suite 200	410 AgriBank Bldg
Amherst, MA 01002	3001 Coolidge Road	375 Jackson Street
(413) 253-4300	East Lansing, MI 48823	St. Paul, MN 55101-1853
	(517)324-5100	(651) 602-7835

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USDA Rural Development State Directors and State Office Locations

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MISSISSIPPI	MISSOURI	MONTANA
Mr. Nick Walters	Mr. Gregory Branum	Mr. W. T. (Tim) Ryan
Federal Bldg, Suite 831	Parkade Center, Suite 235	Unit 1, Suite B
100 W Capitol Street	601 Business Loop 70 West	900 Technology Boulevard
Jackson, MS 39269	Columbia, MO 65203	Bozeman, MT 59715
(601) 965-4316	(573) 876-0976	(406) 585-2580
NEBRASKA	**NEVADA**	**NEW JERSEY**
Mr. M. James Barr	Mr. Larry J. Smith	Mr. Ernest Grunow
Federal Bldg, Room 152	1390 S Curry Street	Tarnsfield Plaza, Suite 22
100 Centennial Mall N	Carson City, NV 89703-9910	790 Woodlane Road
Lincoln, NE 68508	(702) 887-1222	Mt. Holly, NJ 08060
(402) 437-5551		(609) 265-3600
NEW MEXICO	**NEW YORK**	**NORTH CAROLINA**
Mr. Roberto Salazar	Mr. Patrick H. Brennan	Mr. John Cooper
Room 255	The Galleries of Syracuse	Suite 260
6200 Jefferson Street, NE	441 S Salina Street, Suite 357	4405 Bland Road
Albuquerque, NM 87109	Syracuse, NY 13202-2541	Raleigh, NC 27609
(505) 761-4950	(315) 477-6400	(919) 873-2000
NORTH DAKOTA	**OHIO**	**OKLAHOMA**
Mr. Clare Carlson	Mr. Randall C. Hunt	Mr. Brent J. Kisling
Federal Bldg, Room 208	Federal Bldg, Room 507	Suite 108
220 East Rooser, PO Box 1737	200 N High Street	100 USDA
Bismarck, ND 58502-1737	Columbus, OH 43215-2477	Stillwater, OK 74074-2654
(701) 530-2061	(614) 255-2500	(405) 742-1000
OREGON	**PENNSYLVANIA**	**PUERTO RICO**
Mr. Lynn Schoessler	Mr. Byron E. Ross	Mr. Jose Otero
Suite 1410	Suite 330	New San Juan Off Bldg, Room 501
101 SW Main	One Credit Union Place	159 Carlos E Chardon Street
Portland, OR 97204-3222	Harrisburg, PA 17110-2996	Hato Rey, PR 00918-5481
(503) 414-3300	(717) 237-2299	(787) 766-5095
SOUTH CAROLINA	**SOUTH DAKOTA**	**TENNESSEE**
Mr. Charles Sparks	Mr. Thomas Kostel (Acting)	Ms. Mary (Ruth) Tackett
Strom Thurmond Federal Bldg	Federal Bldg, Room 210	Suite 300
1835 Assembly Street, Room 1007	200 Fourth Street, SW	3322 W End Avenue
Columbia, SC 29201	Huron, SD 57360	Nashville, TN 37203-1084
(803) 765-5163	(605) 352-1100	(615) 783-1300
TEXAS	**UTAH**	**VERMONT & NEW HAMPSHIRE**
Mr. Richard L. Perryman (Acting)	Mr. John R. Cox	Ms. Jolinda H. LaClair
Federal Bldg, Suite 102	Wallace F Bennett Federal Bldg	City Center, 3rd Floor
101 S Main	125 S State Street, Room 4311	89 Main Street
Temple, TX 76501	Salt Lake City, UT 84147	Montpelier, VT 05602
(254) 742-9700	(801) 524-4320	(802) 828-6000

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USDA Rural Development State Directors and State Office Locations

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VIRGINIA	WASHINGTON	WEST VIRGINIA
Joseph W. Newbill	Mr. Jackie J. Gleason	Ms. Jenny N. Phillips
Culpeper Bldg, Suite 238	Suite B	Federal Bldg, Room 320
1606 Santa Rosa Road	1835 Black Lake Blvd, SW	75 High Street
Richmond, VA 23229	Olympia, WA 98512-5715	Morgantown, WV 26505-7500
(804) 287-1550	(360) 704-7740	(304) 291-4791
WISCONSIN	**WYOMING**	
Mr. Frank Frassetto	Mr. John E. Cochran	
4949 Kirschling Court	Federal Building, Room 1005	
Stevens Point, WI 54481	100 East B, PO Box 820	
(715) 345-7600	Casper, WY 82602	
	(307) 261-6300	

December 17, 2001

RURAL HOUSING SERVICE
FISCAL YEAR 2002 ALLOCATION IN THOUSANDS
SECTION 502 DIRECT RURAL HOUSING LOANS

STATES	STATE BASIC FORMULA FACTOR	TOTAL FY 2002 ALLOCATION
1 ALABAMA	0.0267275	$18,144
2 ARIZONA	0.0145422	$9,872
3 ARKANSAS	0.0208104	$14,127
4 CALIFORNIA	0.0454819	$30,876
5 COLORADO	0.0091766	$6,230
6 CONNECTICUT	0.0066693	$4,528
7 DELAWARE	0.0024571	$1,668
9 FLORIDA	0.0312406	$21,208
10 GEORGIA	0.0374586	$25,429
12 IDAHO	0.0076722	$5,208
13 ILLINOIS	0.0266774	$18,110
15 INDIANA	0.0270785	$18,382
16 IOWA	0.0163474	$11,098
18 KANSAS	0.0127369	$8,647
20 KENTUCKY	0.0288838	$19,608
22 LOUISIANA	0.0246715	$16,748
23 MAINE	0.0108314	$7,353
24 MARYLAND	0.0115334	$7,830
25 MASSACHUSETTS	0.0109818	$7,455
26 MICHIGAN	0.0353525	$23,999
27 MINNESOTA	0.0199077	$13,514
28 MISSISSIPPI	0.0250226	$16,987
29 MISSOURI	0.0252733	$17,157
31 MONTANA	0.0063685	$4,323
32 NEBRASKA	0.0086752	$5,889
33 NEVADA	0.0028583	$1,940
34 NEW HAMPSHIRE	0.0072711	$4,936
35 NEW JERSEY	0.0097784	$6,638
36 NEW MEXICO	0.0110320	$7,489
37 NEW YORK	0.0359041	$24,374
38 NORTH CAROLINA	0.0484405	$32,884
40 NORTH DAKOTA	0.0045131	$3,064
41 OHIO	0.0390131	$26,484
42 OKLAHOMA	0.0174005	$11,812
43 OREGON	0.0154949	$10,519
44 PENNSYLVANIA	0.0467857	$31,761
45 RHODE ISLAND	0.0015545	$1,055
46 SOUTH CAROLINA	0.0258249	$17,531
47 SOUTH DAKOTA	0.0062682	$4,255
48 TENNESSEE	0.0291846	$19,812
49 TEXAS	0.0660415	$44,833
52 UTAH	0.0040618	$2,757
53 VERMONT	0.0052653	$3,574
54 VIRGINIA	0.0289841	$19,676
56 WASHINGTON	0.0187042	$12,697
57 WEST VIRGINIA	0.0175008	$11,880
58 WISCONSIN	0.0237188	$16,102
59 WYOMING	0.0036105	$2,451
60 ALASKA	0.0055160	$3,745
61 HAWAII	0.0067195	$4,562
62 W PAC ISLANDS	N/A	$1,000
63 PUERTO RICO	0.0239695	$16,272
64 VIRGIN ISLANDS	0.0020058	$1,362
STATE TOTALS	1.0000000	$679,855
CONTINGENCY FOR RECISSION		$53,000
100 UNDERSERVED COUNTIES/COLONIAS		$53,992
EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY EARMARK		$38,000
GENERAL RESERVE		$145,001
SELF HELP		$110,000
TOTAL		$1,079,848

RURAL HOUSING SERVICE
FISCAL YEAR 2002 ALLOCATION IN THOUSANDS
SECTION 502 DIRECT RURAL HOUSING LOANS

STATES	TOTAL FY 2002 ALLOCATION	VERY LOW-INCOME ALLOCATION 40 PERCENT	LOW-INCOME ALLOCATION 60 PERCENT
1 ALABAMA	$18,144	$7,258	$10,886
2 ARIZONA	$9,872	$3,949	$5,923
3 ARKANSAS	$14,127	$5,651	$8,476
4 CALIFORNIA	$30,876	$12,350	$18,525
5 COLORADO	$6,230	$2,492	$3,738
6 CONNECTICUT	$4,528	$1,811	$2,717
7 DELAWARE	$1,668	$667	$1,001
9 FLORIDA	$21,208	$8,483	$12,725
10 GEORGIA	$25,429	$10,172	$15,257
12 IDAHO	$5,208	$2,083	$3,125
13 ILLINOIS	$18,110	$7,244	$10,866
15 INDIANA	$18,382	$7,353	$11,029
16 IOWA	$11,098	$4,439	$6,659
18 KANSAS	$8,647	$3,459	$5,188
20 KENTUCKY	$19,608	$7,843	$11,765
22 LOUISIANA	$16,748	$6,699	$10,049
23 MAINE	$7,353	$2,941	$4,412
24 MARYLAND	$7,830	$3,132	$4,698
25 MASSACHUSETTS	$7,455	$2,982	$4,473
26 MICHIGAN	$23,999	$9,600	$14,400
27 MINNESOTA	$13,514	$5,406	$8,109
28 MISSISSIPPI	$16,987	$6,795	$10,192
29 MISSOURI	$17,157	$6,863	$10,294
31 MONTANA	$4,323	$1,729	$2,594
32 NEBRASKA	$5,889	$2,356	$3,534
33 NEVADA	$1,940	$776	$1,164
34 NEW HAMPSHIRE	$4,936	$1,974	$2,962
35 NEW JERSEY	$6,638	$2,655	$3,983
36 NEW MEXICO	$7,489	$2,996	$4,493
37 NEW YORK	$24,374	$9,749	$14,624
38 NORTH CAROLINA	$32,884	$13,154	$19,730
40 NORTH DAKOTA	$3,064	$1,225	$1,838
41 OHIO	$26,484	$10,594	$15,891
42 OKLAHOMA	$11,812	$4,725	$7,087
43 OREGON	$10,519	$4,208	$6,311
44 PENNSYLVANIA	$31,761	$12,704	$19,056
45 RHODE ISLAND	$1,055	$422	$633
46 SOUTH CAROLINA	$17,531	$7,013	$10,519
47 SOUTH DAKOTA	$4,255	$1,702	$2,553
48 TENNESSEE	$19,812	$7,925	$11,887
49 TEXAS	$44,833	$17,933	$26,900
52 UTAH	$2,757	$1,103	$1,654
53 VERMONT	$3,574	$1,430	$2,145
54 VIRGINIA	$19,676	$7,870	$11,806
56 WASHINGTON	$12,697	$5,079	$7,618
57 WEST VIRGINIA	$11,880	$4,752	$7,128
58 WISCONSIN	$16,102	$6,441	$9,661
59 WYOMING	$2,451	$980	$1,471
60 ALASKA	$3,745	$1,498	$2,247
61 HAWAII	$4,562	$1,825	$2,737
62 W PAC ISLANDS	$1,000	$400	$600
63 PUERTO RICO	$16,272	$6,509	$9,763
64 VIRGIN ISLANDS	$1,362	$545	$817
STATE TOTALS	$679,855	$271,942	$407,913
Contingency for Recission	$53,000	$21,200	$31,800
100 Underserved Counties and Colonias	$53,992	$21,597	$32,395
EZ/EC/REAP Reserve	$38,000	$15,200	$22,800
General Reserve	$145,001	$83,594	$61,407
Self-Help	$110,000	$61,600	$48,400
TOTAL	$1,079,848	$475,133	$604,715

RURAL HOUSING SERVICE
FISCAL YEAR 2002
ALLOCATION IN THOUSANDS
SECTION 502 GUARANTEED LOANS (NONSUBSIDIZED)

STATES	STATE BASIC FORMULA FACTOR	TOTAL FY 2001 ALLOCATION
ALABAMA	0.0253847	$54,235
ALASKA	0.0061561	$13,153
ARIZONA	0.0155290	$33,178
ARKANSAS	0.0213661	$45,649
CALIFORNIA	0.0524861	$112,136
COLORADO	0.0100701	$21,515
DELAWARE	0.0024043	$5,137
MARYLAND	0.0104750	$22,380
FLORIDA	0.0308357	$65,881
VIRGIN ISLANDS	0.0027236	$5,819
GEORGIA	0.0385293	$82,318
HAWAII	0.0083323	$17,802
W PAC ISLANDS	N/A	$1,000
IDAHO	0.0077774	$16,616
ILLINOIS	0.0256395	$54,779
INDIANA	0.0236023	$50,425
IOWA	0.0151422	$32,351
KANSAS	0.0123032	$26,286
KENTUCKY	0.0286790	$61,273
LOUISIANA	0.0256223	$54,742
MAINE	0.0113916	$24,338
MASSACHUSETTS	0.0117468	$25,097
CONNECTICUT	0.0065708	$14,039
RHODE ISLAND	0.0017216	$3,678
MICHIGAN	0.0337181	$72,039
MINNESOTA	0.0184738	$39,469
MISSISSIPPI	0.0259670	$55,479
MISSOURI	0.0253687	$54,200
MONTANA	0.0067138	$14,344
NEBRASKA	0.0083216	$17,779
NEVADA	0.0029735	$6,353
NEW JERSEY	0.0091825	$19,618
NEW MEXICO	0.0117200	$25,040
NEW YORK	0.0369739	$78,995
NORTH CAROLINA	0.0471742	$100,787
NORTH DAKOTA	0.0040847	$8,727
OHIO	0.0378081	$80,777
OKLAHOMA	0.0175713	$37,541
OREGON	0.0166212	$35,511
PENNSYLVANIA	0.0438367	$93,656
PUERTO RICO	0.0250931	$53,611
SOUTH CAROLINA	0.0249510	$53,308
SOUTH DAKOTA	0.0065435	$13,980
TENNESSEE	0.0276859	$59,151
TEXAS	0.0665018	$142,080
UTAH	0.0039861	$8,516
VERMONT	0.0057475	$12,280
NEW HAMPSHIRE	0.0075234	$16,074
VIRGINIA	0.0278404	$59,481
WASHINGTON	0.0200905	$42,923
WEST VIRGINIA	0.0172518	$36,859
WISCONSIN	0.0222867	$47,616
WYOMING	0.0035006	$7,479
STATE TOTALS	1.0000000	$2,137,500
GENERAL RESERVE		$700,348
SPECIAL OUTREACH AREAS RESERVE		$300,121
TOTAL		$3,137,969

RURAL HOUSING SERVICE
FISCAL YEAR 2002
ALLOCATION IN THOUSANDS
SECTION 504 RURAL HOUSING LOANS

STATES	STATE BASIC FORMULA	TOTAL FY 2002 ALLOCATION
1 ALABAMA	0.0290630	$715
2 ARIZONA	0.0200434	$493
3 ARKANSAS	0.0225489	$555
4 CALIFORNIA	0.0531151	$1,307
5 COLORADO	0.0085185	$210
6 CONNECTICUT	N/A	$100
7 DELAWARE	N/A	$100
9 FLORIDA	0.0295641	$728
10 GEORGIA	0.0395858	$974
12 IDAHO	0.0075163	$185
13 ILLINOIS	0.0225489	$555
15 INDIANA	0.0220478	$543
16 IOWA	0.0130282	$321
18 KANSAS	0.0115250	$284
20 KENTUCKY	0.0320695	$789
22 LOUISIANA	0.0295641	$728
23 MAINE	0.0100217	$247
24 MARYLAND	0.0095206	$234
25 MASSACHUSETTS	0.0080174	$197
26 MICHIGAN	0.0290630	$715
27 MINNESOTA	0.0175380	$432
28 MISSISSIPPI	0.0300651	$740
29 MISSOURI	0.0240521	$592
31 MONTANA	0.0060130	$148
32 NEBRASKA	0.0070152	$173
33 NEVADA	N/A	$100
34 NEW HAMPSHIRE	0.0055119	$136
35 NEW JERSEY	0.0070152	$173
36 NEW MEXICO	0.0150326	$370
37 NEW YORK	0.0285619	$703
38 NORTH CAROLINA	0.0476031	$1,171
40 NORTH DAKOTA	N/A	$100
41 OHIO	0.0330717	$814
42 OKLAHOMA	0.0175380	$432
43 OREGON	0.0150326	$370
44 PENNSYLVANIA	0.0370803	$913
45 RHODE ISLAND	N/A	$100
46 SOUTH CAROLINA	0.0280608	$691
47 SOUTH DAKOTA	0.0060130	$148
48 TENNESSEE	0.0295641	$728
49 TEXAS	0.0781694	$2,591
52 UTAH	N/A	$100
53 VERMONT	0.0045098	$111
54 VIRGINIA	0.0295641	$728
56 WASHINGTON	0.0185402	$456
57 WEST VIRGINIA	0.0180391	$444
58 WISCONSIN	0.0195423	$481
59 WYOMING	N/A	$100
60 ALASKA	0.0080174	$197
61 HAWAII	0.0100217	$247
62 W PAC ISLANDS	N/A	$1,000
63 PUERTO RICO	0.0340738	$839
64 VIRGIN ISLANDS	N/A	$100
STATE TOTALS	1.0000000	$26,408
Contingency for Recission		$1,600
GENERAL RESERVE		$1,500
EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES EARMARK		$1,200
100 UNDERSERVED COUNTIES/COLONIAS		$1,616
TOTAL		$32,324

RURAL HOUSING SERVICE
FISCAL YEAR 2002
ALLOCATION INTHOUSANDS
SECTION 504 RURAL HOUSING GRANTS

STATES	STATE BASIC FORMULA FACTOR	TOTAL FY 2002 ALLOCATION
01 ALABAMA	0.0280565	$681
02 ARIZONA	0.0170343	$413
03 ARKANSAS	0.0223784	$543
04 CALIFORNIA	0.0480968	$1,166
05 COLORADO	0.0083501	$203
06 CONNECTICUT	0.0053441	$130
07 DELAWARE	N/A	$100
09 FLORIDA	0.0340685	$827
10 GEORGIA	0.0367406	$892
12 IDAHO	0.0073481	$178
13 ILLINOIS	0.0263864	$640
15 INDIANA	0.0243824	$592
16 IOWA	0.0163662	$397
18 KANSAS	0.0133602	$324
20 KENTUCKY	0.0297265	$721
22 LOUISIANA	0.0260524	$632
23 MAINE	0.0103542	$251
24 MARYLAND	0.0100202	$243
25 MASSACHUSETTS	0.0096861	$235
26 MICHIGAN	0.0317305	$770
27 MINNESOTA	0.0197063	$478
28 MISSISSIPPI	0.0270545	$657
29 MISSOURI	0.0257184	$624
31 MONTANA	0.0060121	$146
32 NEBRASKA	0.0086841	$211
33 NEVADA	N/A	$100
34 NEW HAMPSHIRE	0.0060121	$146
35 NEW JERSEY	0.0083501	$203
36 NEW MEXICO	0.0123582	$300
37 NEW YORK	0.0323985	$786
38 NORTH CAROLINA	0.0470948	$1,143
40 NORTH DAKOTA	0.0046761	$114
41 OHIO	0.0360726	$875
42 OKLAHOMA	0.0183703	$446
43 OREGON	0.0156983	$381
44 PENNSYLVANIA	0.0437547	$1,062
45 RHODE ISLAND	N/A	$100
46 SOUTH CAROLINA	0.0260524	$632
47 SOUTH DAKOTA	0.0063461	$154
48 TENNESSEE	0.0293925	$713
49 TEXAS	0.0714772	$1,734
52 UTAH	N/A	$100
53 VERMONT	0.0046761	$114
54 VIRGINIA	0.0283905	$689
56 WASHINGTON	0.0183703	$446
57 WEST VIRGINIA	0.0180363	$438
58 WISCONSIN	0.0223783	$543
59 WYOMING	N/A	$100
60 ALASKA	0.0056781	$138
61 HAWAII	0.0076821	$186
62 W PAC ISLANDS	N/A	$500
63 PUERTO RICO	0.0263865	$640
64 VIRGIN ISLANDS	N/A	$100
STATE TOTALS	1.0000000	$24,937
Contingency for Recission		$1,400
GENERAL RESERVE		$1,620
EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES EARMARK		$600
100 UNDERSERVED COUNTIES/COLONIAS		$1,497
TOTAL		$30,053

RURAL HOUSING SERVICE FY 2002
MULTI-FAMILY HOUSING
SECTION 533
HOUSING PRESERVATION GRANT
ALLOCATION IN THOUSANDS

STATE	FORMULA FACTOR	TOTAL ALLOCATION
AL	0.02957	$195,162
AK	0.00587	$38,742
AZ	0.01780	$117,480
AR	0.02310	$152,460
CA	0.04653	$307,098
CO	0.00840	$55,440
DE	0.00190	$12,540
MD	0.00880	$58,080
FL	0.02890	$190,740
GA	0.03867	$255,222
HI	0.00790	$52,140
WPA	0.00647	$42,702
ID	0.00743	$49,038
IL	0.02250	$148,500
IN	0.02157	$142,362
IA	0.01340	$88,440
KS	0.01130	$74,580
KY	0.03483	$229,878
LA	0.03170	$209,220
ME	0.00913	$60,258
MA	0.00793	$52,338
CT	0.00453	$29,898
RI	0.00100	$6,600
MI	0.02977	$196,482
MN	0.01673	$110,418
MS	0.03180	$209,880
MO	0.02460	$162,360
MT	0.00620	$40,920
NE	0.00713	$47,058
NV	0.00263	$17,358
NJ	0.00657	$43,362
NM	0.01437	$94,842
NY	0.02753	$181,698
NC	0.04497	$296,802
ND	0.00413	$27,258
OH	0.03450	$227,700
OK	0.01917	$126,522
OR	0.01423	$93,918
PA	0.03687	$243,342
PR	0.04923	$324,918
SC	0.02690	$177,540
SD	0.00597	$39,402
TN	0.02973	$196,218
TX	0.07645	$504,570
UT	0.00430	$28,380
VT	0.00403	$26,598
NH	0.00503	$33,198
VI	0.00273	$18,018
VA	0.02660	$175,560
WA	0.01743	$115,038
WV	0.01937	$127,842
WI	0.01873	$123,618
WY	0.00307	$20,262
DISTR.	1.00000	$6,600,000
N/O RES.		$782,000
EZ/EC/REAP		$600,000
TTL AVAIL.		$7,982,000

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Federal Register

Monday,
February 25, 2002

Part III

Department of Agriculture

Rural Housing Service

Notice of Funds Availability (NOFA) for section 514 Farm Labor Housing Loans and section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2002; Notice

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability (NOFA) for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2002

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: This NOFA announces the timeframe to submit applications for section 514 Farm Labor Housing loan funds and section 516 Farm Labor Housing grant funds for new construction and acquisition and rehabilitation of off-farm units for farmworker households. Applications may also include requests for section 521 rental assistance (RA) and operating assistance for migrant units. This document describes the method used to distribute funds, the application process, and submission requirements.

DATES: The closing deadline for receipt of all applications in response to this NOFA is 5 p.m., local time for each Rural Development State office on May 28, 2002. The application closing deadline is firm as to date and hour. RHS will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Applicants wishing to apply for assistance must contact the Rural Development State office serving the place in which they desire to locate off-farm labor housing to receive further information and copies of the application package. Rural Development will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with a written acknowledgment of receipt. A listing of Rural Development State offices, their addresses, telephone numbers, and person to contact follows:

Note: Telephone numbers listed are not toll-free.

Alabama State Office, Suite 601, Sterling Center, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3455, TDD (334) 279–3495, James B. Harris

Alaska State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7740, TDD (1–907–786–7786, Deborah Davis

Arizona State Office, Phoenix Corporate Center, 3003 N. Central Ave., Suite 900, Phoenix, AZ 85012–2906, (602) 280–8706, TDD (602) 280–8770, Johnna Vargas

Arkansas State Office, 700 W. Capitol Ave., Rm. 3416, Little Rock, AR 72201–3225, (501) 301–3250, TDD (501) 301–3279, Clinton King

California State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5819, TDD (530) 792–5848, Jeff Deis

Colorado State Office, 655 Parfet Street, Room E100, Lakewood, CO 80215, (303) 236–2801 (ext. 124), TDD (303) 236–1590, Mary Summerfield

Connecticut

Served by Massachusetts State Office

Delaware & Maryland State Office, 5201 South Dupont Highway, PO Box 400, Camden, DE 19934–9998, (302) 697–4353, TDD (302) 697–4303, Pat Baker

Florida & Virgin Islands State Office, 4440 N.W. 25th Place, PO Box 147010, Gainesville, FL 32614–7010, (352) 338–3465, TDD (352) 338–3499, Joseph P. Fritz

Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2164, TDD (706) 546–2034, Wayne Rogers

Guam

Served by Hawaii State Office

Hawaii, Guam, & Western Pacific Territories State Office, Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8309, TDD (808) 933–8321, Thao Khamoui

Idaho State Office, Suite A1, 9173 West Barnes Dr., Boise, ID 83709, (208) 378–5628, TDD (208) 378–5644, LaDonn McElligott

Illinois State Office, 2118 W. Park Ct. Suite A, Champaign, IL 6821–2986, (217) 403–6222, TDD (217) 403–6240, Barry L. Ramsey

Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100 (ext. 423), TDD (317) 290–3343, John Young

Iowa State Office, 873 Federal Building, 210, Walnut Street, Des Moines, IA 50309, (515) 284–4666, TDD (515) 284–4858, Julie Sleeper

Kansas State Office, 1303 SW First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2721, TDD (785) 271–2767, Virginia M. Hammersmith

Kentucky State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (606) 224–7300, TDD (606) 224–7422, Paul Higgins

Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7962, TDD (318) 473–7655, Yvonne R. Emerson

Maine State Office, 444 Stillwater Ave., Suite 2, PO Box 405, Bangor, ME 04402–0405, (207) 990–9110, TDD (207) 942–7331, Michael Grondin

Maryland

Served by Delaware State Office

Massachusetts, Connecticut, & Rhode Island State Office, 451 West Street, Amherst, MA 01002, (413) 253–4333, TDD (413) 253–4590, Donald Colburn

Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5192, TDD (517) 337–6795, Philip Wolak

Minnesota State Office, 410 AgriBank Building, 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7804, TDD (651) 602–7830, Joyce Vondal

Mississippi State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325, TDD (601) 965–5850, Darnella Smith-Murray

Missouri State Office, 1201 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0990, TDD (573) 876–9480, Charles H. Marcks

Montana State Office, Unit 1, Suite B, 900 Technology Blvd., Bozeman, MT 59715, (406) 585–2518, TDD (406) 585–2562, Craig Hildreth

Nebraska State Office, Federal Building, room 152, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5567, TDD (402) 437–5093, Phil Willnerd

Nevada State Office, 1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222 (ext. 13), TDD (775) 885–0633, William L. Brewer

New Hampshire State Office, Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6046, TDD (603) 229–0536, Jim Fowler

New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 Woodland Road, Mt. Holly, NJ 08060, (609) 265–3636, TDD (609) 265–3687, George Hyatt, Jr.

New Mexico State Office, 6200 Jefferson St., NE, Room 255, Albuquerque, NM 87109, (505) 761–4944, TDD (505) 761–4938, Carmen N. Lopez

New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6419, TDD (315) 477–6447, George N. Von Pless

North Carolina State Office, 4405 Bland Road, Suite 2120, Raleigh, NC 271209, (919) 873–2066, TDD (919) 873–2003, Terry Strole

North Dakota State Office, Federal Building, Room 208, 220 East Rosser, PO Box 1737, Bismarck, ND 58502, (701) 530–2049, TDD (701) 530–2113, Kathy Lake

Ohio State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2477, (614) 255–2418, TDD (614) 255–2554, Melodie Taylor

Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1070, TDD (405) 742–1007, Phil Reimers

Oregon State Office, 101 SW Main, Suite 1410, Portland, OR 97204–3222, (503) 414–3325, TDD (503) 414–3387, Margo Donelin

Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, TDD (717) 237–2261, Gary Rothrock

Puerto Rico State Office, New San Juan Office Bldg., Room 501, 159 Carlos E. Chardon Street, Hato Rey, PR 00918–5481, (787) 766–5095 (ext. 254), TDD 1–800–274–1572, Lourdes Colon

Rhode Island

Served by Massachusetts State Office

South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 253–3432, TDD (803) 765–5697, Larry D. Floyd

South Dakota State Office, Federal Building, Room 210, 200 Fourth Street, SW, Huron, SD 57350, (605) 352–1132, TDD (605) 352–1147, Dwight Wullweber

Tennessee State Office, Suite 300, 3322 West End Avenue, Nashville, TN 37203–1084, (615) 783–1300, TDD (615) 783–1397, G. Benson Lasater

Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9755, TDD (254) 742–9712, Eugene G. Pavlat

Utah State Office, Wallace F. Bennett Federal Building, 125 S. State Street, Room 4311, Salt Lake City, UT 84147–0350, (801) 524–4324, TDD (801) 524–3309, Robert L. Milianta

Vermont State Office, City Center, 3rd Floor 89 Main Street, Montpelier, VT 05602, (802) 828–6028, TDD (802) 223–6365, Sandra Mercier

Virgin Islands

Served by Florida State Office

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1547, TDD (804) 287–1753, Eileen Nowlin

Washington State Office, 1011 East Main St., Suite 306, Puyallup, WA 98372–6771, (253) 845–9272 X114, TDD (360) 704–7760, Robert Lund

Western Pacific Territories

Served by Hawaii State Office

West Virginia State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4889, TDD (304) 284–4836, Craig St. Clair

Wisconsin State Office, 4949 Kirschiling Court, Stevens Point, WI 54481, (715) 345–7620 (ext. 7145), TDD (715) 345–7614, Sherry Engel

Wyoming State Office, 100 East B, Federal Building, Room 1005, PO Box 820, Casper, WY 82602, (307) 261–6315, TDD (307) 261–6333, Charles Huff

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Mary Fox, Senior Loan Specialist or David Layfield, Senior Loan Specialist, of the Multi-Family Housing Processing Division, Rural Housing Service, United States Department of Agriculture, Stop 0781, 1400 Independence Avenue, SW, Washington, DC, 20250, telephone (202) 720–1624 or (202) 690–0759 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service).

SUPPLEMENTARY INFORMATION:

Programs Affected

The Farm Labor Housing Program is listed in the Catalog of Federal Domestic Assistance under Number 10.405, Farm Labor Housing Loans and Grants. Rental Assistance is listed in the Catalog under Number 10.427, Rural Rental Assistance Payments.

Definitions

Farm Labor. Farm labor includes services in connection with cultivating the soil, raising or harvesting any agriculture or aquaculture commodity; or in catching, netting, handling, planting, drying, packing, grading, storing, or preserving in its unmanufactured state any agriculture or aquaculture commodity; or delivering to storage, market, or a carrier for transportation to market or to process any agricultural or aquacultural commodity.

Migrant Agricultural Laborers. Agricultural laborers and family dependents who establish a temporary residence while performing agriculture work at one or more locations away from the place they call home or home base. (This does not include day-haul agricultural workers whose travels are limited to work areas within one day of their work locations.)

Off-Farm Labor Housing. Housing for farm laborers regardless of the farm where they work.

Discussion of Notice

I. Authority and Distribution Methodology

A. Authority

The Farm Labor Housing program is authorized by the Housing Act of 1949: Section 514 (42 U.S.C. 1484) for loans and section 516 (42 U.S.C. 1486) for grants. Tenant subsidies (rental assistance (RA)) are available through section 521 (42 U.S.C. 1490a). Sections 514 and 516 provide RHS the authority to make loans and grants for financing off-farm housing to broad-based nonprofit organizations, nonprofit organizations of farmworkers, federally recognized Indian tribes, agencies or political subdivisions of State or local government, public agencies (such as local housing authorities) and with section 514 loans to nonprofit limited partnerships in which the general partner is a nonprofit entity.

B. Distribution Methodology

Because RHS has the ability to adjust loan and grant levels, final loan and grant levels will fluctuate. The estimated funds available for fiscal year (FY) 2002 for off-farm housing are: Section 514 loans, $22,459,099; Section 516 grants, $13,967,000.

C. Section 514 and Section 516 Funds

Section 514 loan funds and section 516 grant funds will be distributed to States based on a national competition, as follows:

1. States will accept, review, and score requests in accordance with 7 CFR part 1944, subpart D. The scoring factors are:

(a) The presence and extent of leveraged assistance, including donated land, for the units that will serve program-eligible tenants, calculated as a percentage of the RHS total development cost (TDC). RHS TDC excludes non-RHS eligible costs such as a developer's fee. Leveraged assistance includes, but is not limited to, funds for hard construction costs, section 8 or other non-RHS tenant subsidies, and state or federal funds. A minimum of ten percent leveraged assistance is required to earn points; however, if the total percentage of leveraged assistance is less than ten percent and the proposal includes donated land, two points will be awarded for the donated land. Points will be awarded in accordance with the following table. (0 to 20 points)

Percentage	Points
75 or more	20
60–74	18
50–59	16

Percentage	Points
40–49	12
30–39	10
20–29	8
10–19	5
0–9	0
Donated land in proposals with less than ten percent total leveraged assistance	2

(b) Seasonal, temporary, migrant housing. (5 points for up to and including 50 percent of the units; 10 points for 51 percent or more.)

(c) The selection criteria contained in 7 CFR 1944, Subpart D includes one optional criteria set by the National Office. This fiscal year, the National office initiative will be used in the selection criteria as follows:

Up to 10 points will be awarded based on the presence of and extent to which a tenant services plan exists that clearly outlines services that will be provided to the residents of the proposed project. These services may include but are not limited to: transportation related services, on-site English as a Second Language (ESL) classes, move-in funds, emergency assistance funds, homeownership counseling, food pantries, after school tutoring, and computer learning centers. Two points will be awarded for each resident service included in the tenant services plan up to a maximum of 10 points. Plans must detail how the services are to be administered, who will administer them, and where they will be administered. All tenant service plans must include letters of intent that clearly state the service that will be provided at the project for the benefit of the residents from any party administering each service, including the applicant. (0 to 10 points)

2. States will conduct preliminary eligibility review, score applications, and forward to the National Office.

3. The National office will rank all requests nationwide and distribute funds to States in rank order, within funding and RA limits. If insufficient funds or RA remain for the next ranked proposal, the Agency will select the next ranked proposal that falls within the remaining levels. In case of point-score ties in the National ranking, first preference will be given to a preapplication to develop units in a state that does not have existing RHS-financed off-farm LH units; second preference to a preapplication will be from a State that has not yet been selected in the current funding cycle. In the event there are multiple preapplications in either category, one preapplication from each State (the highest State-ranked) will compete by computer-based random lottery. If necessary, the process will be completed until all same-pointed preapplications are selected or funds are exhausted.

II. Funding Limits

A. Individual requests may not exceed $3 million (total loan and grant).

B. No State may receive more than 30 percent of the total available funds unless an exception is granted from the Administrator.

C. Rental Assistance and Operating Assistance will be held in the National Office for use with section 514 loans and section 516 grants and will be awarded based on each project's financial structure and need.

III. Application Process

All applications for sections 514 and 516 funds must be filed with the appropriate Rural Development State office and must meet the requirements of 7 CFR part 1944, subpart D, and section IV of this NOFA. Incomplete applications will not be reviewed and will be returned to the applicant. No application will be accepted after 5 pm, local time, on May 28, 2002, unless date and time is extended by another Notice published in the **Federal Register**.

IV. Application Submission Requirements

A. Each application shall include all of the information, materials, forms and exhibits required by 7 CFR part 1944, subpart D, as well as comply with the provisions of this NOFA. Applicants are encouraged, but not required, to include a checklist and to have their applications indexed and tabbed to facilitate the review process. The Rural Development State office will base its determination of completeness of the application and the eligibility of each applicant on the information provided in the application.

B. Applicants are advised to contact the Rural Development State office serving the place in which they desire to submit an application for application information.

Dated: February 15, 2002.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 02–4329 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability (NOFA) for the Section 515 Rural Rental Housing Program for Fiscal Year 2002

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: This NOFA announces the timeframe to submit applications for section 515 Rural Rental Housing (RRH) loan funds and section 521 Rental Assistance (RA) for new construction, including applications for the nonprofit set-aside for eligible nonprofit entities, the set-aside for the most Underserved Counties and Colonias (Cranston-Gonzalez National Affordable Housing Act), and the set-aside for Empowerment Zones and Enterprise Communities (EZ/ECs) and Rural Economic Area Partnership (REAP) communities. This document describes the methodology that will be used to distribute funds, the application process, submission requirements, and areas of special emphasis or consideration.

DATES: The closing deadline for receipt of all applications, including those for the set-asides, in response to this NOFA is 5:00 p.m., local time for each Rural Development State office on April 26, 2002. The application closing deadline is firm as to date and hour. RHS will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Applicants wishing to apply for assistance must contact the Rural Development State office serving the place in which they desire to submit an application for rural rental housing to receive further information and copies of the application package. Rural Development will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with a written acknowledgment of receipt. A listing of Rural Development State offices, their addresses, telephone numbers, and person to contact follows:

Note: Telephone numbers listed are not toll-free.

Alabama State Office, Suite 601, Sterling Centre, 4121 Carmichael Road, Montgomery, AL 36106–3683,

(334) 279–3455, TDD (334) 279–3495, James B. Harris
Alaska State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7740, TDD (907) 761–8905, Deborah Davis
Arizona State Office, Phoenix Corporate Center, 3003 N. Central Ave., Suite 900, Phoenix, AZ 85012–2906, (602) 280–8765, TDD (602) 280–8706, Johnna Vargas
Arkansas State Office, 700 W. Capitol Ave., Room 3416, Little Rock, AR 72201–3225, (501) 301–3250, TDD (501) 301–3279, Cathy Jones
California State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5819 or, (530) 792–5830, TDD (530) 792–5848, Jeff Deiss
Colorado State Office, 655 Parfet Street, Room E100, Lakewood, CO 80215, (720) 544–2922, TDD (720) 544–2976, ''Sam'' Mitchell

Connecticut

Served by Massachusetts State Office

Delaware and Maryland State Office, 5201 South Dupont Highway, PO Box 400, Camden, DE 19934–9998, (302) 697–4353, TDD (302) 697–4303, Pat Baker
Florida & Virgin Islands State Office, 4440 N.W. 25th Place, Gainesville, FL 32614–7010, (352) 338–3465, TDD (352) 338–3499, Joseph P. Fritz
Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2164, TDD (706) 546–2034, Wayne Rogers

Guam

Served by Hawaii State Office

Hawaii and Western Pacific State Office, Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8309, TDD (808) 933–8321, Thao Khamoui
Idaho State Office, Suite A1, 9173 West Barnes Dr., Boise, ID 83709, (208) 378–5630, TDD (208) 378–5644, LaDonn McElligott
Illinois State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6222, TDD (217) 403–6240, Barry L. Ramsey
Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100 (ext. 423), TDD (317) 290–3343, John Young
Iowa State Office, 873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4666, TDD (515) 284–4858, Julie Sleeper
Kansas State Office, 1303 SW First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2721, TDD (785) 271–2767, Virginia M. Hammersmith
Kentucky State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7325, TDD (859) 224–7422, Paul Higgins
Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7962, TDD (318) 473–7655, Yvonne R. Emerson
Maine State Office, 967 Illinois Ave., Suite 4, PO Box 405, Bangor, ME 04402–0405, (207) 990–9110, TDD (207) 942–7331, Dale D. Holmes

Maryland

Served by Delaware State Office

Massachusetts, Connecticut, & Rhode Island State Office, 451 West Street, Amherst, MA 01002, (413) 253–4333, TDD (413) 253–4590, Donald Colburn
Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5192, TDD (517) 337–6795, Philip Wolak
Minnesota State Office, 410 AgriBank Building, 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7804, TDD (651) 602–7830, Joyce Vondal
Mississippi State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325, TDD (601) 965–5850, Darnella Smith-Murray
Missouri State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0990, TDD (573) 876–9301, Charlie Marcks
Montana State Office, Unit 1, Suite B, 900 Technology Blvd., Bozeman, MT 59715, (406) 585–2551, TDD (406) 585–2562, Deborah Chorlton
Nebraska State Office, Federal Building, Room 152, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5594, TDD (402) 437–5093, Phil Willnerd
Nevada State Office, 1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222 (ext. 13), TDD (775) 885–0633, William L. Brewer
New Hampshire State Office, Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6062, TDD (603) 229–0536, Jim Fowler
New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 Woodland Road, Mt. Holly, NJ 08060, (609) 265–3636, TDD (609) 265–3687, George Hyatt, Jr.
New Mexico State Office, 6200 Jefferson St., NE, Room 255, Albuquerque, NM 87109, (505) 761–4944, TDD (505) 761–4938, Carmen N. Lopez
New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6419, TDD (315) 477–6447, George N. Von Pless
North Carolina State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2066, TDD (919) 873–2003, Terry Strole
North Dakota State Office, Federal Building, Room 208, 220 East Rosser, PO Box 1737, Bismarck, ND 58502, (701) 530–2049, TDD (701) 530–2113, Kathy Lake
Ohio State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2477, (614) 255–2418, TDD (614) 255–2554, Melodie Taylor
Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1070, TDD (405) 742–1007, Phillip F. Reimers
Oregon State Office, 101 SW Main, Suite 1410, Portland, OR 97204–3222, (503) 414–3325, TDD (503) 414–3387, Bill Daniel
Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, TDD (717) 237–2261, Gary Rothrock
Puerto Rico State Office, 654 Munoz Rivera Avenue, IBM Plaza, Suite 601, Hato Rey, PR 00918, (787) 766–5095 (ext. 249), TDD (787) 766–5332, Lourdes Colon

Rhode Island

Served by Massachusetts State Office

South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 253–3432, TDD (803) 765–5697, Larry D. Floyd
South Dakota State Office, Federal Building, Room 210, 200 Fourth Street, SW., Huron, SD 57350, (605) 352–1132, TDD (605) 352–1147, Dwight Wullweber
Tennessee State Office, Suite 300, 3322 West End Avenue, Nashville, TN 37203–1084, (615) 783–1375, TDD (615) 783–1397, G. Benson Lasater
Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9755, TDD (254) 742–9712, Eugene G. Pavlat
Utah State Office, Wallace F. Bennett Federal Building, 125 S. State Street, Room 4311, Salt Lake City, UT 84147–0350, (801) 524–4324, TDD (801) 524–3309, Robert L. Milianta
Vermont State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6028, TDD (802) 223–6365, Sandra Mercier

Virgin Islands

Served by Florida State Office

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1547, TDD (804) 287–1753, Eileen Nowlin
Washington State Office, Puyallup Executive Park, 1011 E. Main, Suite

306, Puyallup, WA 98372–6771, (253) 845–9272 (ext. 5), TDD (253) 845–0553, Robert Lund

Western Pacific Territories

Served by Hawaii State Office

West Virginia State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4889, TDD (304) 284–4836, Craig St. Clair

Wisconsin State Office 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7615 (ext. 151), TDD (715) 345–7614, Sherry Engel

Wyoming State Office, 100 East B, Federal Building, Room 1005, PO Box 820, Casper, WY 82602, (307) 261–6315, TDD (307) 261–6333, Charles Huff

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Linda Armour, Senior Loan Officer, Multi-Family Housing Processing Division, Rural Housing Service, United States Department of Agriculture, Stop 0781, 1400 Independence Avenue, SW, Washington, DC 20250, telephone (202) 720–1753 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service).

SUPPLEMENTARY INFORMATION:

Programs Affected

The Rural Rental Housing program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans. Rental Assistance is listed in the Catalog under Number 10.427, Rural Rental Assistance Payments.

Discussion of Notice

I. Authority and Distribution Methodology

A. Authority

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) provides RHS with the authority to make loans to any individual, corporation, association, trust, Indian tribe, public or private nonprofit organization, consumer cooperative, or partnership to provide rental or cooperative housing and related facilities in rural areas for very-low, low, or moderate income persons or families, including elderly persons and persons with disabilities. Rental assistance (RA) is a tenant subsidy for very-low and low-income families residing in rural rental housing facilities with RHS financing and may be requested with applications for such facilities.

B. Distribution Methodology

The total amount available for FY 2002 for section 515 is $114,068,998, of which $49,000,000 is available for new construction as follows:

Section 515 new construction funds	$16,715,502
Set-aside for nonprofits	10,266,209
Set-aside for Underserved Counties and Colonias	5,703,450
Set-aside for EZ, EC, and REAP Zones	14,814,839
State Rental Assistance (RA) Designated reserve	1,500,000

C. Section 515 New Construction Funds

For fiscal year 2002 the Administrator has determined that it would not be practical to allocate funds to States because of funding limitations; therefore, section 515 new construction funds will be distributed to States based on a National competition, as follows:

1. States will accept, review, score, and rank requests in accordance with 7 CFR part 1944, subpart E. The scoring factors are:

(a) The presence and extent of leveraged assistance for the units that will serve RHS income-eligible tenants at basic rents comparable to those if RHS provided full financing, computed as a percentage of the RHS total development cost (TDC). RHS TDC excludes non-RHS eligible costs such as a developer's fee. The required applicant contribution is not considered leveraged assistance. Leveraged assistance includes loans and grants from other sources, contributions from the applicant above the required contribution indicated by the Sources and Uses Comprehensive Evaluation (available from the Rural Development State Office) and tax abatements or other savings in operating costs provided that, at the end of the abatement period when the benefit is no longer available, the basic rents are comparable to or lower than the basic rents if RHS provided full financing. Loan proposals that include secondary funds from other sources that have been requested but have not yet been committed will be processed as follows: The proposal will be scored based on the requested funds, provided (1) the applicant includes evidence of a filed application for the funds; and (2) the funding date of the requested funds will permit processing of the loan request in the current funding cycle, or, if the applicant does not receive the requested funds, will permit processing of the next highest ranked proposal in the current year. Points will be awarded in accordance with the following table. (0 to 20 points)

Percentage of leveraging	Points
75 or more	20
70–74	19
65–69	18
60–64	17
55–59	16
50–54	15
45–49	14
40–44	13
35–39	12
30–34	11
25–29	10
20–24	9
15–19	8
10–14	7
5–9	6
0–4	0

(b) The units to be developed are in a colonia, tribal land, EZ, EC, or REAP community, or in a place identified in the State Consolidated Plan or State Needs Assessment as a high need community for multifamily housing. (20 points)

(c) In states where RHS has an on-going formal working relationship, agreement, or Memorandum of Understanding (MOU) with the State to provide State resources (State funds, State RA, HOME funds, CDBG funds, or Low-Income Housing Tax Credits) for RHS proposals; or where the State provides preference or points to RHS proposals in awarding such State resources, 20 points will be provided to loan requests that include such State resources in an amount equal to at least 5 percent of the total development cost. Native American Housing and Self Determination Act (NAHASDA) funds may be considered a State Resource if the Tribal Plan for NAHASDA funds contains provisions for partnering with RHS for multifamily housing. (National office initiative)

(d) The loan request includes donated land meeting the provisions of 7 CFR 1944.215(r)(4). (5 points)

2. The National office will rank all requests nationwide and distribute funds to States in rank order, within funding and RA limits. If insufficient funds or RA remain for the next ranked proposal, the Agency will select the next ranked proposal that falls within the remaining levels. Point score ties will be handled as follows: The highest ranked same-pointed proposal from each State will be selected, followed by the second highest ranked proposal, and so on, until funds are exhausted. If there are insufficient funds to select the highest ranked proposal from each State, selection will be made by lottery.

D. Applications That Do Not Require New Construction Rental Assistance (RA)

For fiscal year 2002 limited new construction RA is available. Therefore, the Agency is inviting applications to develop units in markets that do not require RA. The market study for non-RA proposals must clearly demonstrate a need and demand for the units by prospective tenants at income levels that can support the proposed rents without tenant subsidies. The proposed units must offer amenities that are typical for the market area at rents that are comparable to conventional rents in the market for similar units.

E. Set-asides

Loan requests will be accepted for the following set-asides:

1. Nonprofit set-aside. An amount of $10,266,209 has been set aside for nonprofit applicants. All loan proposals must be in designated places in accordance with 7 CFR part 1944, subpart E. A State or jurisdiction may receive one proposal from this set-aside, which cannot exceed $1 million. A State could get additional funds from this set-aside if any funds remain after funding one proposal from each participating State. If there are insufficient funds to fund one loan request from each participating State, selection will be made by point score. If there are any funds remaining, they will revert to the National office reserve. Funds from this set-aside will be available only to nonprofit entities, which may include a partnership that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary which will be receiving low-income housing tax credits authorized under section 42 of the Internal Revenue Code of 1986. To be eligible for this set-aside, the nonprofit entity must be an organization that:

(a) Will own an interest in the project to be financed and will materially participate in the development and the operations of the project;

(b) Is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986;

(c) Has among its purposes the planning, development, or management of low-income housing or community development projects; and

(d) Is not affiliated with or controlled by a for-profit organization.

2. Underserved counties and colonias set-aside. An amount of $5,703,450 has been set aside for loan requests to develop units in the 100 most needy underserved counties or colonias as defined in section 509(f) of the Housing Act of 1949.

3. EZ, EC, and REAP set-aside. An amount of $14,814,839 has been set aside to develop units in EZ, EC, or REAP communities. Loan requests that are eligible for this set-aside may also be eligible for regular section 515 funds as a high-need community. The state must indicate on the list submitted to the National office if the request is eligible for the EZ, EC, and REAP set-aside and regular section 515 funds. If requests for this set-aside exceed available funds, selection will be made by point score.

II. Funding Limits

A. Individual loan requests may not exceed $1 million. This applies to regular section 515 funds and set-aside funds. The Administrator may make an exception to this limit in cases where a State's average total development costs exceed the National average by 50 percent or more.

B. No State may receive more than $2.5 million, including set-asides funds.

III. Rental Assistance (RA)

New construction RA will be held in the National office for use with section 515 Rural Rental Housing loans. RA may be requested by applicants, except for non-RA requests in accordance with section I.D. above.

IV. Application Process

All applications for section 515 new construction funds must be filed with the appropriate Rural Development State office and must meet the requirements of 7 CFR part 1944, subpart E and section V of this NOFA. Incomplete applications will not be reviewed and will be returned to the applicant. No application will be accepted after 5:00 p.m., local time, on the application deadline previously mentioned unless that date and time is extended by a Notice published in the **Federal Register**.

V. Application Submission Requirements

A. Each application shall include all of the information, materials, forms and exhibits required by 7 CFR part 1944, subpart E as well as comply with the provisions of this NOFA. Applicants are encouraged, but not required, to include a checklist and to have their applications indexed and tabbed to facilitate the review process. The Rural Development State office will base its determination of completeness of the application and the eligibility of each applicant on the information provided in the application.

B. Applicants are advised to contact the Rural Development State office serving the place in which they desire to submit an application for the following:

1. Application information and

2. List of designated places for which applications for new section 515 facilities may be submitted.

VI. Areas of Special Emphasis or Consideration

A. The selection criteria contained in 7 CFR part 1944, subpart E includes two optional criteria, one set by the National Office and one by the State office. This fiscal year, the National Office initiative will be used in the selection criteria as follows: In states where RHS has an on-going formal working relationship, agreement, or Memorandum of Understanding (MOU) with the State to provide State resources (State funds, State RA, HOME funds, CDBG funds, or LIHTC) for RHS proposals; or where the State provides preference or points to RHS proposals in awarding these State Resources, 20 points will be provided to loan requests that include such State resources in an amount equal to at least 5 percent of the total development cost. Native American Housing and Self Determination Act (NAHASDA) funds may be considered a State Resource if the Tribal Plan for NAHASDA funds contains provisions for partnering with RHS for multifamily housing. No State selection criteria will be used this fiscal year.

B. $10,266,209 is available nationwide in a set-aside for eligible nonprofit organizations as defined in 42 U.S.C. 1485(w).

C. $5,703,450 is available nationwide in a set-aside for the 100 most Underserved Counties and Colonias.

D. $14,814,839 is available nationwide in a set-aside for EZ, EC, and REAP communities.

E. $1,500,000 is available nationwide in a reserve for States with viable State Rental Assistance (RA) programs. In order to participate, States are to submit specific written information about the State RA program, i.e., a memorandum of understanding, documentation from the provider, etc., to the National Office.

Dated: February 15, 2002.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 02–4330 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability (NOFA) for section 533 Housing Preservation Grants

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. The HPG program is a grant program which provides qualified public agencies, private nonprofit organizations, and other eligible entities grant funds to assist very low- and low-income homeowners repair and rehabilitate their homes in rural areas, and to assist rental property owners and cooperative housing complexes to repair and rehabilitate their units if they agree to make such units available to low- and very low-income persons. This action is taken to comply with Agency regulations found in 7 CFR part 1944, subpart N, which require the Agency to announce the opening and closing dates for receipt of preapplications for HPG funds from eligible applicants. The intended effect of this Notice is to provide eligible organizations notice of these dates.

DATES: The closing deadline for receipt of all applications in response to this NOFA is 5 p.m., local time for each Rural Development State office on May 28, 2002. The application closing deadline is firm as to date and hour. RHS will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Applicants wishing to apply for assistance must contact the Rural Development State office serving the place in which they desire to submit an application to receive further information and copies of the application package. Rural Development will date and time stamp incoming applications to evidence timely receipt, and, upon request, will provide the applicant with a written acknowledgment of receipt. A listing of Rural Development State offices, their addresses, telephone numbers, and person to contact follows:

Note: Telephone numbers listed are not toll-free.

Alabama State Office, Suite 601, Sterling Centre, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3455, TDD (334) 279–3495, James B. Harris

Alaska State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7740, TDD (907) 761–8905, Deborah Davis

Arizona State Office, Phoenix Corporate Center, 3003 N. Central Ave., Suite 900, Phoenix, AZ 85012–2906, (602) 280–8765, TDD (602) 280–8706, Johnna Vargas

Arkansas State Office, 700 W. Capitol Ave., Rm. 3416, Little Rock, AR 72201–3225, (501) 301–3250, TDD (501) 301–3279, Cathy Jones

California State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5819 or, (530) 792–5830, TDD (530) 792–5848, Millie Manzanedo or Jeff Deiss

Colorado State Office, 655 Parfet Street, Room E100, Lakewood, CO 80215, (720) 544–2922, TDD (720) 544–2976, ''Sam'' Mitchell

Connecticut

Served by Massachusetts State Office

Delaware and Maryland State Office, 5201 South Dupont Highway, PO Box 400, Camden, DE 19934–9998, (302) 697–4353, TDD (302) 697–4303, Pat Baker

Florida & Virgin Islands State Office, 4440 N.W. 25th Place, Gainesville, FL 32614–7010, (352) 338–3465, TDD (352) 338–3499, Joseph P. Fritz

Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2164, TDD (706) 546–2034, Wayne Rogers

Guam

Served by Hawaii State Office

Hawaii and Western Pacific State Office, Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8309, TDD (808) 933–8321, Thao Khamoui

Idaho State Office, Suite A1, 9173 West Barnes Dr., Boise, ID 83709, (208) 378–5630, TDD (208) 378–5644, LaDonn McElligott

Illinois State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6222, TDD (217) 403–6240, Barry L. Ramsey

Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100 (ext. 423), TDD (317) 290–3343, John Young

Iowa State Office, 873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4493, TDD (515) 284–4858, Bruce McGuire

Kansas State Office, 1303 SW First American Place Ste 100, Topeka, KS 66604–4040, (785) 271–2721, TDD (785) 271–2767, Virginia M. Hammersmith

Kentucky State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7325, TDD (859) 224–7422, Paul Higgins

Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7962, TDD (318) 473–7655, Yvonne R. Emerson

Maine State Office, 967 Illinois Ave., Suite 4, PO Box 405, Bangor, ME 04402–0405, (207) 990–9110, TDD (207) 942–7331, Dale D. Holmes

Maryland

Served by Delaware State Office

Massachusetts, Connecticut, & Rhode Island State Office, 451 West Street, Amherst, MA 01002, (413) 253–4333, TDD (413) 253–4590, Donald Colburn

Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5192, TDD (517) 337–6795, Philip Wolak

Minnesota State Office, 410 AgriBank Building, 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7804, TDD (651) 602–7830, Joyce Vondal

Mississippi State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325, TDD (601) 965–5850, Darnella Smith-Murray

Missouri State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0990, TDD (573) 876–9301, Charlie Marcks

Montana State Office, Unit 1, Suite B, 900 Technology Blvd., Bozeman, MT 59715, (406) 585–2551, TDD (406) 585–2562, Deborah Chorlton

Nebraska State Office, Federal Building, room 152, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5594, TDD (402) 437–5093, Phil Willnerd

Nevada State Office, 1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222 (ext. 13), TDD (775) 885–0633, William L. Brewer

New Hampshire State Office, Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6062, TDD (603) 229–0536, Jim Fowler

New Jersey State Office, Tarnsfield Plaza, Suite 22, 790 Woodland Road, Mt. Holly, NJ 08060, (609) 265–3636, TDD (609) 265–3687, George Hyatt, Jr.

New Mexico State Office, 6200 Jefferson St., NE, Room 255, Albuquerque, NM 87109, (505) 761–4944, TDD (505) 761–4938, Carmen N. Lopez

New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6419, TDD (315) 477–6447, George N. Von Pless

North Carolina State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2066, TDD (919) 873–2003, Terry Strole

North Dakota State Office, Federal Building, Room 208, 220 East Rosser, PO Box 1737, Bismarck, ND 58502, (701) 530–2049, TDD (701) 530–2113, Kathy Lake

Ohio State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2477, (614) 255–2418, TDD (614) 255–2554, Melodie Taylor

Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1070, TDD (405) 742–1007, Phil Reimers

Oregon State Office, 101 SW Main, Suite 1410, Portland, OR 97204–3222, (503) 414–3325, TDD (503) 414–3387, Bill Daniel

Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, TDD (717) 237–2261, Gary Rothrock

Puerto Rico State Office, 654 Munoz Rivera Avenue, IBM Plaza, Suite 601, Hato Rey, PR 00918, (787) 766–5095 (ext. 249), TDD (787) 766–5332, Lourdes Colon

Rhode Island

Served by Massachusetts State Office

South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 253–3432, TDD (803) 765–5697, Larry D. Floyd

South Dakota State Office, Federal Building, Room 210, 200 Fourth Street, SW., Huron, SD 57350, (605) 352–1132, TDD (605) 352–1147, Dwight Wullweber

Tennessee State Office, Suite 300, 3322 West End Avenue, Nashville, TN 37203–1084, (615) 783–1375, TDD (615) 783–1397, G. Benson Lasater

Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9755, TDD (254) 742–9712, Eugene G. Pavlat

Utah State Office, Wallace F. Bennett Federal Building, 125 S. State Street, Room 4311, Salt Lake City, UT 84147–0350, (801) 524–4324, TDD (801) 524–3309, Robert L. Milianta

Vermont State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6028, TDD (802) 223–6365, Sandra Mercier

Virgin Islands

Served by Florida State Office

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1547, TDD (804) 287–1753, Eileen Nowlin

Washington State Office, Puyallup Executive Park, 1011 E. Main, Suite 306, Puyallup, WA 98372–6771, (253) 845–9272 (ext. 5), TDD (253) 845–0553, Robert Lund

Western Pacific Territories

Served by Hawaii State Office

West Virginia State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4889, TDD (304) 284–4836, Craig St. Clair

Wisconsin State Office, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7615 (ext.151), TDD (715) 345–7614, Sherry Engel

Wyoming State Office, 100 East B, Federal Building, Room 1005, PO Box 820, Casper, WY 82602, (307) 261–6315, TDD (307) 261–6333, Charles Huff

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Tracee Lilly, Senior Loan Officer, Multi-Family Housing Processing Division, Rural Housing Service, United States Department of Agriculture, Stop 0781, 1400 Independence Avenue, SW, Washington, DC 20250, telephone (202) 720–1604 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service).

SUPPLEMENTARY INFORMATION:

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.433, Rural Housing Preservation Grants. This program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V). Applicants are referred to 7 CFR 1944.674 and 1944.676(f), (g), and (h) for specific guidance on these requirements relative to the HPG program.

Application Requirements

7 CFR part 1944, subpart N provides details on what information must be contained in the preapplication package. Entities wishing to apply for assistance should contact the Rural Development State office to receive further information, the State allocation of funds, and copies of the preapplication package. Eligible entities for these competitively awarded grants include state and local governments, nonprofit corporations, Federally recognized Indian Tribes, and consortia of eligible entities.

Funding Information

The funding instrument for the HPG program will be a grant agreement. The term of the grant can vary from 1 to 2 years, depending on available funds and demand. No maximum or minimum grant levels have been established at the National level. You should contact the State office to determine the allocation and the State maximum grant level, if any. For FY 2002, $7,982,000 is available for the Housing Preservation Grant Program. A set aside of $600,000 has been established for grants located in Empowerment Zones, Enterprise Communities, and REAP Zones and $6,600,000 has been distributed under a formula allocation to States pursuant to 7 CFR part 1940, subpart L, ''Methodology and Formulas for Allocation of Loan and Grant Program Funds''. Decisions on funding will be based on preapplications.

Dated: February 15, 2002.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 02–4331 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Availability of Funding and Requests for Proposals for Guaranteed Loans Under the Section 538 Guaranteed Rural Rental Housing Program

AGENCY: Rural Housing Service, USDA.

ACTION: Notice of fund availability.

Required Responses From: Eligible Lenders for Multi-Family Lending.

Program Offers: Loan Guarantees and Interest Credits for Rural Housing.

SUMMARY: This Notice of Fund Availability (NOFA or Notice) announces the timeframe, submission requirements and deadlines to submit proposals in the form of ''NOFA responses'' for the section 538 Guaranteed Rural Rental Housing Program (GRRHP)for the Fiscal Year (FY) 2002 allocation of $99.77 million. This Notice describes the commitment of program dollars, eligibility requirements, lender responsibilities, and the overall NOFA and application processes.

The GRRHP operates under 7 CFR part 3565. The GRRHP Origination and Servicing Handbook (HB–1–3565) is available to provide lenders and the

general public with guidance on program administration. HB–1–3565, which contains a copy of 7 CFR part 3565 in Appendix 1, can be found at the Rural Development regulation web site address http://rdinit.usda.gov/regs.

Eligible lenders are invited to submit NOFA responses for the development of affordable rental housing to serve rural America. The Rural Housing Service (RHS) will review responses submitted by eligible lenders, on the lender's letterhead, and signed by both the prospective borrower and lender. Although a complete application is not required in response to the NOFA, eligible lenders may submit a complete application concurrently with the NOFA response. The submission of a complete application will not affect the scoring process.

DATES: The FY 2002 program dollars will be allocated through a continuous selection process. The RHS will review all NOFA responses through May 16, 2002. Reviews will take place on an on-going basis. Those responses that are selected that subsequently submit complete applications and meet all federal environmental requirements will receive commitments until all funds are expended. A notice will be placed in the **Federal Register** when all funds are committed for FY 2002. NOFA responses received after May 16, 2002 will be held for review subject to the availability of funds.

Eligible lenders intending to mail a NOFA response or application must provide sufficient time to permit delivery to the NOFA submission address on or before the closing deadline date and time. Acceptance by a U.S. Post Office or private mailer does not constitute delivery. Postage due NOFA responses and applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: Arlene Nunes, Senior Loan Specialist, Guaranteed Loans, Multi-Family Housing Processing Division, U.S. Department of Agriculture, South Agriculture Building, Room 1271, STOP 0781, 1400 Independence Avenue, SW, Washington, DC 20250–0781. E-mail: anunes@rdmail.rural.usda.gov. Telephone: (202) 401–2307. This number is not toll-free. Hearing or speech-impaired persons may access that number by calling the Federal Information Relay Service toll-free at (800) 877–8339.

Eligiblity of Prior Year Selected NOFA Responses: NOFA responses selected in FY 2001 are eligible for FY 2002 program dollars subject to the availability of funds. FY 2001 NOFA responses selected by RHS for submission of a complete application may submit an application for competition for FY 2002 funding without completing a FY 2002 NOFA response. All qualified applications will be funded on a first come basis until all program funds are exhausted. RHS will commit and obligate funds only to lenders that submit a complete application including all federal environmental documents required by 7 CFR 1940 subpart G, Form RD 3565–1, ''Application for Loan and Guarantee'' and the 2,500 dollar application fee.

General Program Information

Program Purpose: The section 538 Guaranteed Rural Rental Housing Program is designed to increase the supply of affordable multi-family housing through partnerships between the RHS and major lending sources, as well as state and local housing finance agencies and bond issuers.

Qualifying Properties: Qualifying properties include new construction for multi-family housing units or acquisition of existing structures with rehabilitation of at least 15,000 dollars per unit.

Eligible Financing Sources: Any form of Federal, state, and conventional sources of financing can be used in conjunction with the loan guarantee, including Home Investment Partnership Program (HOME) grant funds, tax exempt bonds, and low income housing tax credits.

Maximum Guarantee: The maximum guarantee for a permanent loan will be 90 percent of the unpaid balance and interest on the loan. The maximum guarantee on a construction loan will be 90 percent of the work in place, which have credit enhancements, or up to 90 percent of the amount actually advanced by the lender, whichever is less.

Reimbursement of Losses: Any losses will be split on a pro-rata basis between the lender and the RHS from the first dollar lost.

Interest Rate: RHS will accept the best rate negotiated between the lender and prospective borrower indexed to the 10-year Treasury Bond Yield. However, priority points will be given for interest rates less than 300 basis points over the 10-Year Treasury Bond Yield. Interest rates must be fixed over the term of the loan.

Interest Credit: RHS will award interest credit to at least 20 percent of the loans made under the program. If 20 percent of the loans have not received interest credit by May 16, 2002, then RHS will award interest credit to those loans that initially requested interest credit and have the highest interest credit priority score until at least 20% of the loans have received interest credit. Requests for interest credit must be made in the NOFA response. Lenders are not permitted to make requests for interest credit after the selection process has taken place.

Due to limited funding and in order to distribute Interest Credit assistance as broadly as possible, the Agency has decided to limit the interest credit to $1.5 million per loan. For example, if an eligible request were made for interest credit on a loan of $2.5 million, up to $1.5 million of the loan would receive interest credit and $1 million would be originated at the note rate. Interest credit is not available for construction loans. Interest credit is only available for permanent loans. Lenders with projects that are viable with or without interest credit are encouraged to submit a NOFA response reflecting financial and market feasibility under both funding options. NOFA responses requesting consideration under both options will not affect interest credit selection. However, once the interest credit funds are exhausted, only those NOFA responses requesting consideration under both funding options or the Non-Interest Credit option will be further considered.

Due to limited interest credit funds and the responsibility of RHS to target and give priority to rural areas most in need, NOFA responses requesting interest credit must score a minimum of 65 points under the criteria established in this NOFA. In the event of ties, selection between responses will be by lot.

Surcharges for Guarantee of Construction Advances: There is no surcharge for the guarantee of construction advances for FY 2002.

Program Fees for FY 2002: The following information stipulates the program fees.

(1) There is an initial guarantee fee of 1 percent of the total guarantee amount, which will be due when the loan guarantee is issued. In the case of a combination construction and permanent loan guarantee, the 1 percent initial fee will be paid when the construction loan note guarantee is issued. For purposes of calculating this fee, the guarantee amount is the product of the percentage of the guarantee times the initial principal amount of the guaranteed loan.

(2) There is an annual renewal fee of 0.5 percent of the outstanding principal and interest of the loan. This fee will be collected annually on January 1st of each calendar year.

(3) There is no fee for site assessment and market analysis or preliminary feasibility in FY 2002.

(4) There is a non-refundable application fee of $2,500 when the application is submitted.

(5) There is a flat fee of $500 when a lender requests RHS to extend the term of a guarantee commitment.

(6) There is a flat fee of $500 when a lender requests RHS to extend a guarantee commitment after the period of the commitment lapses.

(7) There is a flat fee of $1,250 when a lender requests RHS to approve the transfer of property and assumption of the loan to an eligible prospective borrower.

(8) There is no lender application fee for lender approval in FY 2002.

Eligible Lenders: An eligible lender for the section 538 Guaranteed Loan Housing Program as required by 7 CFR 3565.102 must be a licensed business entity or Housing Finance Agency in good standing in the state or states where it conducts business. Lender eligibility requirements are contained in 7 CFR part 3565, subpart C, section 3565.102 ''Lender Eligibility''. Below is a list of eligible lenders under 7 CFR 3565.102:

(1) A licensed business entity that meets the qualifications and has the approval of the Secretary of Housing and Urban Development (HUD) to make multi-family housing loans that are insured under the National Housing Act. A complete list of HUD approved lenders can be found in the HUD Web site at *www.hud.gov.*

(2) A licensed business entity that meets the qualifications and has the approval of the Freddie Mac or Fannie Mae corporations to make multi-family housing loans that are sold to the same corporations. A complete list of Freddie Mac approved lenders can be found in Freddie Mac's web site at *www.freddiemac.com.* Fannie Mae approved lenders are found at *www.fanniemae.com.*

(3) A state or local Housing Finance Authority (HFA) with a top-tier rating from Moody's or Standard & Poors, or member of the Federal Home Loan Bank system, and the demonstrated ability to underwrite, originate, process, close, service, manage, and dispose of multi-family housing loans in a prudent manner.

(4) Be a GRRHP approved lender, defined as an entity with an executed multi-family housing Lender's Agreement with RHS.

(5) Lenders that can demonstrate the capacity to underwrite, originate, process, close, service, manage, and dispose of multi-family housing loans. In order to be approved the lender will have to have an acceptable level of financial soundness as determined by a lender rating service. The submission of materials demonstrating capacity will be required if the lender's NOFA response is selected.

Lenders who are otherwise ineligible may become eligible if they maintain a correspondent relationship with an eligible lender that does have the capacity to underwrite, originate, process, close, service, manage, and dispose of multi-family housing loans. In this case, the eligible lender must submit the NOFA response and application. All contractual and legal documentation will be signed between RHS and the lender that submitted the NOFA response and application.

RHS Lender Approval Application: Lenders whose NOFA responses are selected will be notified by the RHS to submit a request for RHS lender approval application within 30 days of notification. Lenders that have received RHS lender approval in the past and are in good standing do not need to reapply for RHS lender approval.

Submission of Documentation for RHS Lender Approval: All lenders that have not yet received RHS lender approval must submit a complete application for RHS lender approval. As RHS does not have a formal application form, a complete application will consist of a cover letter requesting RHS lender approval and the following documentation:

(1) a request for RHS lender approval on the lender's letterhead;

(2) Lenders who are HUD, Freddie Mac or Fannie Mae multi-family approved lenders are required to show evidence of this status, such as a copy of a letter designating the distinction.

(3) The lender's Loan Origination, Loan Servicing and Portfolio Management Handbooks. These handbooks should detail the lender's policies and procedures on loan origination through termination for multi-family loans;

(4) Portfolio performance data;

(5) Copies of standard documents that will be used in processing GRRHP loans;

(6) Resumes and qualifications of key personnel that will be involved in the GRRHP;

(7) Identification of standards and processes that deviate from those outlined in the GRRHP Origination and Servicing Handbook (HB–1–3565) found at *http://rdinit.usda.gov/regs;*

(8) A copy of the most recent audited financial statements;

(9) Lender specific information including: (a) Legal name and address, (b) list of principal officers and their responsibilities, (c) certification that the officers and principals of the lender have not been debarred or suspended from Federal programs, (d) Form AD 1047, ''Certification Regarding Debarment and Suspension,'' (e) certification that the lender is not in default or delinquent on any Federal debt or loan, or possess an outstanding finding of deficiency in a federal housing program, and (f) certification of the lender's credit rating;

(10) Documentation on bonding and insurance; and

(11) Certification that computer systems comply with year 2000 technology.

RHS Lender Approval Requirements: Lenders who request RHS lender approval must meet the standards stipulated in the 7 CFR part 3565, subpart C, section 3565.103 ''Approval Requirements.''

Lender Responsibilities: Lenders will be responsible for the full range of loan origination, underwriting, management, servicing, compliance issues and property disposition activities associated with their projects. The lender will be expected to provide guidance to the prospective borrower on the RHS requirements during the application phase. Once the guarantee is issued, the lender is expected to service each loan it underwrites or contract these services to another capable entity.

Discussion of Notice

Content of NOFA Responses: All NOFA responses require lender information and project specific data. Incomplete responses will not be considered for funding. Lenders will be notified of incomplete NOFA responses. Complete NOFA responses are to include a signed cover letter from the lender on the lender's letterhead and the following information:

(1) Lender Information

A. Lender certification—The lender must certify that the lender will make a loan to the prospective borrower for the proposed project, under specified terms and conditions subject to the issuance of the RHS guarantee. Lender certification must be on the lender's letterhead and signed by both the lender and the prospective borrower.

(2) Project Specific Data

A. The lender must submit the project specific data below on the lender's letterhead, signed by both the lender and the prospective borrower.

Lender Name	Insert the lender's name
Lender Tax ID #	Insert lender's tax ID #
Lender Contact Name	Name of the lender contact for Loan
Mailing Address	Lender's complete mailing address
Phone #	Phone # for lender contact
Fax #	Insert lender's fax #
E-mail Address	Insert lender contact e-mail address
Borrower Name and Organization Type	State whether borrower is a Limited Partnership, Corporation, Indian Tribe, etc.
Tax Classification Type	State whether borrower is for profit, not for profit, etc.
Borrower Tax ID #	Insert borrower's tax ID #
Borrower Address, including County	Insert borrower's address and county
Borrower Phone #	Insert borrower's phone #
Principal or Key Member for the Borrower	Insert name and title
Borrower Information and Statement of Housing Development Experience	Attach relevant information
New Construction or Acquisition or Repair or Rehabilitation of at Least $15,000 Per Unit	State whether the project is new construction or acquisition or repair or rehabilitation
Project Location Town or City	Town or city in which the project is located
Project County	County in which the project is located
Project State	State in which state the project is located
Project Zip Code	Insert zip code
Project Congressional District	Congressional District for project location
Project Name	Insert project name
Project Type	Family, senior (all residents over 55), or mixed
Property Description and Proposed Development Schedule	Provide as an attachment
Total Project Development Cost	Enter amount for total project
# of Units	Insert the # of units in the project
Cost Per Unit	Total development cost divided by # of units
Bedroom Mix	# of units by # of bedrooms
Rent	Proposed rent structure
Median Income for Community	Provide median income for the community
Evidence of Site Control	Attach relevant information
Description of Any Environmental Issues	Attach relevant information
Loan Amount	Insert the loan amount
Interest Credit (IC)	Is interest credit requested for this loan (Yes or No)?

Interest Rate (for interest credit requests only)	Lenders seeking interest credit must provide the interest rate. Priority points will be awarded to projects requesting interest credit for interest rates less than 300 basis points over the 10-year treasury bond yield
If Above Is Yes, Should Proposal Be Considered Under Non–IC Selection, If IC Funds Are Exhausted?	If Yes, proposal must show financial feasibility for NON–IC consideration.
Borrower's Proposed Equity	Insert amount.
Tax Credits	Will the project be allocated tax credits? How much? What is the estimated value of the tax credits awarded?
Other Sources of Funds	List all funding sources.
Loan to Value	Guaranteed loan divided by value of project.
Debt Coverage Ratio	Net Operating Income divided by debt service payments.
Percentage of Guarantee	Percentage guarantee requested.
Collateral	Attach relevant information.
Empowerment Zone (EZ) or Enterprise Community (EC)	Yes or No? Is the project in a recognized EZ or EC?
Colonia or Tribal Lands	Is the project in a Colonia or on an Indian Reservation? Yes or No?
Population	Must be within the 20,000 population limit set for the program.
Is a Guarantee for Construction Being Requested? Are Advances Being Requested?	State yes or no. The Agency will guarantee construction advances, only as part of a combination construction and permanent loan.
Loan Term	Up to a 40-year amortized loan Balloon mortgage with a minimum 25-year term are eligible.

Scoring of Priority Criteria for Selection of Projects with Interest Credit Requests: RHS will allocate points to projects with requests for interest credit. Projects with no interest credit request will be reviewed for eligibility and viability on a continuous basis and without any priority selection criteria.

The seven priority criteria for projects with requests for interest credit are listed below.

Priority 1—Projects located in rural communities with the smallest populations.

Score for Priority 1—Projects with the lowest populations will receive the highest points.

Population size	Points
0–1,000 people	20
1,001–2,000 people	19
2,001–3,000 people	18
3,001–4,000 people	17
4,001–5,000 people	16
5,001–6,000 people	15
6,001–7,000 people	14
7,001–8,000 people	13
8,001–9,000 people	12
9,001–10,000 people	11
10,001–11,000 people	10
11,001–12,000 people	9
12,001–13,000 people	8
13,001–14,000 people	7
14,001–15,000 people	6
15,001–16,000 people	5
16,001–17,000 people	4
17,001–18,000 people	3
18,001–19,000 people	2
19,001–20,000 people	1

Priority 2—The RHS will award points for projects with 3–5 bedroom units.

Score for Priority 2—The RHS will score the projects with the 3–5 bedroom units as follows:

No. of 3–5 bedroom units	Points
More than 15	20
10–15	15
5–9	10
1–4	5

Priority 3—The most needy communities as determined by the median income from the most recent census data will receive points.

Score for Priority 3—The RHS will allocate points to projects located in communities having the lowest median income. Points for median income will be awarded as follows:

Median income (dollars)	Points
Less than $25,000	20
$25,000–$29,999	15
$30,000–$34,999	10
$35,000–$40,000	5
More than $40,000	0

Priority 4—Projects that demonstrate partnering and leveraging in order to develop the maximum number of units and promote partnerships with state and local communities will also receive points.

Score for Priority 4—The RHS will award points as follows:

Loan to value ratio (percentage %)	Points
More than 75	10
70–75	15
Less than 70	20

Priority 5—RHS will award points for interest rates less above the 10-Year Treasury Bond Yield as follows:

SCORE FOR PRIORITY 5

Interest rate	Points
300 basis points or more, inclusive	−20
299 to 200 basis points, inclusive	5
199 to 100 basis points, inclusive	10

SCORE FOR PRIORITY 5—Continued

Interest rate	Points
99 to 50 basis points, inclusive	15
Less than 50 basis points, inclusive	20

Priority 6—The development of projects on Tribal Lands, or in an Empowerment Zone or Enterprise Community will receive points.

Score for Priority 6—The RHS will attribute 20 points to projects that are developed in any of the locations described in priority 6.

Priority 7—The development of projects in a Colonia or in a place identified in the State's Consolidated Plan or State Needs Assessment as a high need community for multi-family housing will receive points.

Score for Priority 7—The RHS will attribute 20 points to projects that are developed in any of the locations described in priority 7.

NOFA Submission Address: Eligible lenders will send the NOFA responses to: Director, Multi-Family Housing Processing Division, Rural Housing Service, U.S. Department of Agriculture, Room 1263, STOP 0781, 1400 Independence Avenue, SW, Washington, DC 20250–0781. Responses for participation in the program must be identified as ''Section 538 Guaranteed Rural Rental Housing Program'' on the envelope.

Notifications: NOFA responses will be reviewed for completeness and eligibility. The RHS will notify those lenders whose NOFA responses are selected via letter. The RHS will request lenders without RHS lender approval to apply for RHS lender approval within 30 days upon receipt of notification of selection. For information regarding RHS Lender Approval, please refer to section SUBMISSION OF DOCUMENTATION FOR RHS LENDER APPROVAL in this NOFA. Requests for RHS lender approval should be sent to the person and address listed in the NOFA SUBMISSION ADDRESS section in this NOFA.

Lenders will also be invited to submit a complete application and the required application fee of $2,500 to the Rural Development State Office where the project is located.

Submission of GRRHP Applications: Notification letters will instruct lenders to contact the Rural Development State Office immediately following notification of selection to schedule required agency reviews. Rural Development State Office addresses can be found in the USDA web site, www.usda.gov, under the Rural Development program area.

Rural Development State Office staff will work with lenders in the development of the complete application. Applications must include; (1) The appropriate level of environmental review in accordance with 7 CFR part 1940, subpart G, (2) the Civil Rights Impact Analysis Certification, (3) intergovernmental review (7 CFR part 3015, subpart V), and (4) appropriate flood insurance coverage as stipulated in 7 CFR part 1806 subpart B.

The deadline for the submission of a complete application and fee is 90 days from the date of notification of NOFA selection. If the application and fee are not submitted within 90 days from the date of notification, the selection is subject to cancellation, thereby allowing another NOFA response that is ready to proceed with processing to be selected.

Obligation of Program Funds: The RHS will only obligate funds to projects that undergo a satisfactory environmental review in accordance with the National Environmental Protection Act (NEPA).

Conditional Commitment: Once the complete application and application fee are received and all NEPA requirements have been met, the Rural Development State Office will issue a conditional commitment, which stipulates the conditions that must be met for the issuance of a guarantee, in accordance with 7 CFR part 3565, subpart G, section 3565.303. Once the conditional commitment is issued the funds are obligated to the lender.

Issuance of Guarantee: The RHS will issue a guarantee to the lender for a project in accordance with 7 CFR part 3565, subpart G, section 3565.303 ''Issuance of Loan Guarantee.'' No guarantee can be issued without a complete application, review of appropriate certifications, satisfactory assessment of the appropriate level of environmental review, and the completion of any conditional requirements.

Dated: February 15, 2002.

James C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 02–4332 Filed 2–22–02; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Availability of Funds; Multi-Family Housing, Single Family Housing

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces the availability of housing funds for fiscal year 2002 (FY 2002). This action is taken to comply with 42 U.S.C. 1490p, which requires that RHS publish in the **Federal Register** notice of the availability of any housing assistance.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: For information regarding this notice contact Teresa Sumpter, Loan Specialist, Single Family Housing Direct Loan Division, telephone 202–720–1485, Stop 0783, for single family housing (SFH) issues and Tammy S. Daniels, Loan Specialist, Multi-Family Housing Processing Division, telephone 202–720–0021, Stop 0781 for multi-family housing (MFH) issues, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250. (The telephone numbers listed are not toll free numbers). For information on applying for assistance, visit our Internet Web site at *www.rurdev.usda.gov/recd__map.html* and select your State or check the blue pages in your local telephone directory under ''Rural Development'' for the office serving your area. Also attached for information purposes is a listing of Rural Development State Directors, State Office addresses and phone numbers.

SUPPLEMENTARY INFORMATION:

Programs Affected

The following programs are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials. These programs or activities are listed in the Catalog of Federal Domestic Assistance under Nos.

10.405 Farm Labor Housing (LH) Loans and Grants
10.410 Very Low to Moderate Income Housing Loans
10.411 Rural Housing Site Loans and Self-Help Housing Land Development Loans
10.415 Rural Rental Housing Loans
10.417 Very Low Income Housing Repair Loans and Grants
10.420 Rural Self-Help Housing Technical Assistance
10.427 Rural Rental Assistance Payments
10.433 Rural Housing Preservation Grants
10.442 Housing Application Packaging Grants

Discussion of Notice

Part 1940, subpart L of 7 CFR contains the ''Methodology and Formulas for

Allocation of Loan and Grant Program Funds.'' To apply for assistance under these programs or for more information, contact the Rural Development Office for your area. Separate guidance has been provided to our State offices for assistance available in our Multi- and Single-Family Housing programs as follows:

Multi-Family Housing (MFH)

I. General

A. This provides guidance on MFH funding for the Rural Rental Housing program (RRH) for FY 2002 (does not include carryover funds). Allocation computations have been performed in accordance with 7 CFR 1940.575 and 1940.578. For FY 2002, State Directors, under the Rural Housing Assistance Grants (RHAG), will have the flexibility to transfer their initial allocations of budget authority between the Single Family Housing (SFH) section 504 Rural Housing Grants and section 533 Housing Preservation Grant (HPG) programs.

B. MFH loan and grant levels for FY 2002 are as follows:

MFH Loan Programs Credit Sales: $1,778,515

Section 514 Farm Labor Housing (LH) loans: *$28,459,099

Section 515 Rural Rental Housing (RRH) loans: *$114,068,998

Section 521 Rental Assistance (RA) and 502(c)(5)(C) Advance: *$701,004,000

Section 516 LH grants: *$17,967,000

Section 525 Technical and Supervisory Assistance grants (TSA) and 509 Housing Application Packaging grants: $1,415,977

(HAPG) (Shared between single and multi-family housing): (includes carryover)

Section 533 Housing Preservation grants (HPG): *$7,982,000

Section 538 Guaranteed Rural Rental Housing program: *$99,770,992

* Does not include disaster or regular program carryover.

II. Funds Not Allocated to States

A. *Credit Sales Authority.* For FY 2002, $1,778,515 will be set aside for credit sales to program and nonprogram buyers. Credit sale funding will not be allocated by State.

B. *Section 538 Guaranteed Rural Rental Housing Program.* Guaranteed loan funds will be made available under a Notice of Funding Availability (NOFA) being published in the **Federal Register**. Additional guidance will be provided at that time.

III. Farm Labor Housing (LH) Loans and Grants.

The Administrator has the authority to transfer funds between the two programs. Upon NOFA closing the Administrator will evaluate the responses and determine proper distribution of funds between loans and grants.

A. Section 514 Farm LH Loans

1. These loans are funded in accordance with 7 CFR 1940.579(a).

FY 2002 Appropriation: $28,459,099

Available for Off-Farm Loans: $22,459,099

Available for On-Farm Loans: $2,500,000

National Office Reserve: $3,500,000

2. Off-farm loan funds will be made available under a NOFA being published in the **Federal Register**. Additional guidance will be provided in the NOFA.

B. Section 516 Farm LH Grants

1. Grants are funded in accordance with 7 CFR 1940.579(b). Unobligated prior year balances and cancellations will be added to the amount shown.

FY 2002 Appropriation: $17,967,000

Available for LH Grants for Off-Farm: $13,967,000

Available for Technical Assistance Grants: $1,500,000

National Office Reserve: $2,500,000

2. Labor Housing grant funds for Off-Farm will be made available under a NOFA being published in this **Federal Register**. Additional guidance will be provided in the NOFA.

C. Labor Housing Rental Assistance (RA) will be held in the National Office for use with LH loan and grant applications. RA is only available with an LH loan of at least 5 percent of the total development cost. Projects without a LH loan cannot receive RA.

IV. Section 515 RRH Loan Funds

FY 2002 section 515 Rural Rental Housing allocation (Total): $114,068,998

New Construction funds and set-asides: $49,000,000

New construction loans: $16,715,502

Set-aside for nonprofits: $10,266,209

Set-aside for underserved counties and colonias: $5,703,450

Earmark for EZ, EC, or REAP Zones: $14,814,839

State RA designated reserve: $1,500,000

Rehab and repair funds and equity: $55,000,000

Rehab and repair loans: $50,000,000

Designated equity loan reserve: $5,000,000

General Reserve: $10,068,998

A. *New construction loan funds.* New construction loan funds will be made available using a national NOFA being published in the **Federal Register**. Upon closing of the NOFA, States will submit a list, in rank order of the eligible projects.

B. *National Office New Construction Set-asides.* The following legislatively mandated set-asides of funds are part of the National office set-aside:

1. *Nonprofit Set-aside.* An amount of $10,266,209 has been set aside for nonprofit applicants. All Nonprofit loan proposals must be located in designated places as defined in RD Instruction 1944–E.

2. *Underserved Counties and Colonias Set-Aside.* An amount of $5,703,450 has been set aside for loan requests to develop units in the underserved 100 most needy counties or colonias as defined in section 509(f) of the Housing Act of 1949 as amended. Priority will be given to proposals to develop units in colonias or tribal lands.

3. *EZ, EC or REAP Zone Earmark.* An amount of $14,814,839 has been earmarked for loan requests to develop units in EZ or EC communities or REAP Zones until June 30, 2002.

C. *Rental Assistance (RA).* Limited new construction RA will be held in the National office for use with section 515 Rural Rental Housing loans.

D. *Designated Reserves for State RA.* An amount of $1.5 million of section 515 loan funds has been set aside for matching with projects in which an active State sponsored RA program is available. The State RA program must be comparable to the RHS RA program.

E. *Repair and Rehabilitation Loans.* Tenant health and safety continues to be the top priority. Repair and rehabilitation funds must be first targeted to RRH facilities that have physical conditions that affect the health and safety of tenants and subsequently made available to facilities that have deferred maintenance. All funds will be held in the National office and will be distributed based upon indicated rehabilitation needs in the MFH survey conducted in October 2001.

F. *Designated Reserve for Equity Loans.* An amount of $5 million has been designated for the equity loan preservation incentive described in RH Instruction 1965–E. The $5 million will be further divided into $4 million for equity loan requests currently on the pending funding list and $1 million to facilitate the transfer of properties from for-profit owners to nonprofit corporations and public bodies. Funds for such transfers would be authorized

only for for-profit owners who are currently on the pending funding list who agree to transfer to nonprofit corporations or public bodies rather than to remain on the pending list. If insufficient transfer requests are generated to utilize the full $1 million set aside for nonprofit and public body transfers, the balance will revert to the existing pending equity loan funding list.

G. *General Reserve.* There is one general reserve fund of $10,068,998. Some examples of immediate allowable uses include, but are not limited to, hardships and emergencies, RH cooperatives or group homes, or RRH preservation.

V. Section 533 Housing Preservation Grants (HPG).

Total Available: $7,982,000
Less General reserve: $782,000
Less Earmark for EZ, EC, or REAP Zones: $600,000
Total Available for Distribution: $6,600,000

Amount available for allocation. See end of this Notice for HPG State allocations. Fund availability will be announced in a NOFA being published in the **Federal Register**.

The amount of $600,000 is earmarked for EZ, EC or REAP Zones until June 30, 2002.

Single Family Housing (SFH)

I. General

All SFH programs are administered through field offices. For more information or to make application, please contact the Rural Development office servicing your area. To locate these offices, contact the appropriate State Office from the attached State Office listing, visit our web site at *www.rurdev.usda.gov/recd__map.html* or check the blue pages in your local telephone directory under ''Rural Development'' for the office serving your area.

A. This notice provides SFH allocations for FY 2002. Allocation computations have been made in accordance with 7 CFR 1940.563 through 1940.568. Information on basic formula criteria, data source and weight, administrative allocation, pooling of funds, and availability of the allocation are located on a chart at the end of this notice.

B. The SFH levels authorized for FY 2002 are as follows:

Section 502 Guaranteed Rural Housing (RH) loans
Nonsubsidized Guarantees: $3,137,968,750
Section 502 Direct RH loans
Very low-income subsidized loans: $475,133,131
Low-income subsidized loans: $604,714,893
Credit sales (Nonprogram): $10,000,000
Section 504 housing repair loans: $32,324,929
Section 504 housing repair grants: ***$30,053,395
Section 509 compensation for construction defects: **$574,204
Section 523 mutual and self-help housing grants **: ***$56,055,462
Section 523 Self-Help Site Loans: $5,000,000
Section 524 RH site loans: $5,090,909
Section 306C Water and waste disposal grants: **$1,458,569
Section 525 Supervisory and technical assistance and section 509 Housing Application:
Packaging Grants Total Available for single and multi-family: **$1,415,977
North Carolina Elderly Demonstration Program
Modular Home Loans: **$1,961,244
Modular Home Grants: **$3,998,627
Natural disaster funds (Section 502 loans): **$2,274,638
Natural disaster funds (Section 504 loans): **$13,462,253
Natural disaster funds (Section 504 grants): **$5,035,979

*Includes $600,000 for EZ/EC and REAP communities until June 30, 2002.

**Carryover funds are included in the balance.

***Includes $1,000,000 for EZ/EC and REAP communities until June 30, 2002.

c. *SFH Funding Not Allocated to States.* The following funding is not allocated to States by formula. Funds are made available to each state on a case-by-case basis.

1. *Credit sale authority.* Credit sale funds in the amount of $10,000,000 are available only for nonprogram sales of Real Estate Owned (REO) property.

2. *Section 509 Compensation for Construction Defects.* $574,204 is available for compensation for construction defects.

3. *Section 523 Mutual and Self-Help Technical Assistance Grants.* $56 million is available for section 523 Mutual and Self-Help Technical Assistance Grants. Of these funds, $1 million is earmarked for EZ, EC or REAP Zones until June 30, 2002. A technical review and analysis must be completed by the Technical and Management Assistance (T&MA) contractor on all predevelopment, new, and existing (refunding) grant applications.

4. *Section 523 Mutual and Self-Help Site Loans and Section 524 RH Site Loans.* $5,000,000 and $5,090,909 are available for section 523 Mutual Self-Help and Section 524 RH Site loans, respectively.

5. *Section 306C WWD Grants to Individuals in Colonias.* The objective of the section 306C WWD individual grant program is to facilitate the use of community water or waste disposal systems for the residents of the colonias along the U.S.-Mexico border.

The total amount available to Arizona, California, New Mexico, and Texas will be $1,458,569 for FY 2002. This amount includes the carryover unobligated balance of $458,569 and the transferred amount of $1 million from the Rural Utilities Service (RUS) to RHS for processing individual grant applications.

6. *Section 525 Technical and Supervisory Assistance (TSA) and Section 509 Housing Application Packaging Grants (HAPG).* $998,000 of new funds and $417,977 of carryover funds from previous years remain available for the TSA and HAPG programs. The 29 eligible States under HAPG that have active grantees operating will be able to access up to $5,000 for section 502 or 504 loan and grant programs in order to continue operations. Reserve requests will be considered on a first-come, first-served basis.

7. *North Carolina Elderly Demonstration Program.* Budget authority was earmarked in FY 2001 for the North Carolina Elderly Demonstration Program. These funds were used to provide Section 502 loans and grants in North Carolina for very low- and low-income elderly families who lost their housing as a result of a major disaster declared by the President. Unobligated funds have been carried over into FY 2002 for this demo program. These funds will remain available until they are exhausted.

8. *Natural Disaster Funds.* Funds are available until exhausted to those States with active Presidential Declarations.

9. *Deferred Mortgage Payment Demonstration.* There is no FY 2002 funding provided for deferred mortgage authority or loans for deferred mortgage assumptions.

D. *Contingency Reserve.* For the Section 502 direct and Section 504 loan and grant programs, a 5 percent contingency reserve will be held in the National Office pending a potential rescission of funds which may be used to offset federal outlays to address the tragic events of September 11, 2001. If no rescession occurs, these funds will be distributed to the States based upon the allocation formula.

II. State allocations

A. Section 502 Nonsubsidized Guaranteed RH (GRH) Loans

1. *Amount Available for Allocation.*

Total Available: $3,137,968,750
Less National Office General Reserve: $700,348,107
Less Special Outreach Area Reserve: $300,120,643
Basic Formula—Administrative Allocation: $2,137,500,000

2. *National Office General Reserve.* The Administrator may restrict access to this reserve for States not meeting their goals in special outreach areas.

3. *Special Outreach Areas.* FY 2002 GRH funding is allocated to States in two funding streams (70/30) similar to the 60/40 income split for direct SFH funds. Seventy percent of GRH funds may be used in any eligible area. Thirty percent of GRH funds are to be used in special outreach areas. Special outreach areas are counties with median incomes at or below the State's nonmetropolitan median income. Each funding stream will independently be subject to pooling.

4. *National Office Special Area Outreach Reserve.* A special outreach area reserve fund has been established at the National office. Funds from this reserve may only be used in special outreach areas.

B. Section 502 Direct RH Loans

1. *Amount Available for Allocation.*

Total Available: $1,079,848,024
Less Required Set Aside for:
Underserved Counties and Colonias: $53,992,401
EZ, EC and REAP Earmark: $38,000,000
Less 5% contingency: $53,000,000
Less General Reserve: $145,000,623
Administrator's Reserve: $30,000,623
Hardships & Homelessness: $3,500,000
Rural Housing Demonstration Program: $1,500,000
Homeownership Partnership: $95,000,000
Program funds for the sale of REO properties: $15,000,000
Less Designated Reserve for Self-Help: $110,000,000
Basic Formula Administrative Allocation: $679,855,000

2. *Reserves.*

a. *State Office Reserve.* State Directors must maintain an adequate reserve to fund the following applications:

(i) Hardship and homeless applicants including the direct section 502 loan and section 504 loan and grant programs.

(ii) Mutual Self-Help loans.

(iii) Subsequent loans for essential improvements or repairs and transfers with assumptions.

(iv) Financing for the purchase of program REOs when the National office reserve has been exhausted.

(v) States will leverage an amount equal to 25 percent of their initial low-income allocation and 5 percent of their initial very low-income allocation with funding from other sources. For example, if a State receives an initial low-income allocation of $900,000 the amount to be leveraged from other sources would be $225,000 ($900,000 × 25 percent) for a total RHS and other funding source of $1,125,000 ($900,000 + $225,000).

(vi) Areas targeted by the State according to its strategic plan.

b. *National Office Reserves.*

(i) *General Reserve.* The National office has a general reserve of $145 million. Of this amount, the Administrator's reserve is $30 million. One of the purposes of the Administrator's reserve will be for loans in Indian Country. Indian Country is defined as land inside the boundaries of Indian reservations, communities made up mainly of Native Americans, Indian trust and restricted land, and tribal allotted lands. The remaining reserves will be established as follows:

(ii) *Hardship and Homelessness Reserve.* $3.5 million has been set aside for hardships and homeless.

(iii) Rural Housing Demonstration Program. $1.5 million has been set aside for innovative demonstration initiatives.

(iv) Program credit sales. $20 million has been set aside for program sales of REO property.

(c) *Homeownership Partnership.* $95 million has been set aside for Homeownership Partnerships. These funds will be used to expand existing partnerships and create new partnerships, such as the following:

(i) Department of Treasury, Community Development Financial Institutions (CDFI)—Funds will be available to fund leveraged loans made in partnership with the Department of Treasury CDFI participants.

(ii) Partnership initiatives established to carry out the objectives of the rural home loan partnership (RHLP).

(d) *Designated Reserve for Self-Help.* $110 million has been set aside for matching funds to assist participating Self-Help applicants. The matching funds were established on the basis of the National office contributing 75 percent from the National office reserve and States contributing 25 percent of their allocated section 502 RH funds.

(e) *Underserved Counties and Colonias.* An amount of $53,992,401 has been set aside for the 100 underserved counties and colonias.

(f) *Empowerment Zone (EZ) and Enterprise Community (EC) or Rural Economic Area Partnership (REAP) earmark.* An amount of $38,000,000 has been earmarked until June 30, 2002, for loans in EZ, EC or REAP Zones. Further information will follow.

(g) *State Office Pooling.* If pooling is conducted within a State, it must not take place within the first 30 calendar days of the first, second, or third quarter. (There are no restrictions on pooling in the fourth quarter.)

(h) *Suballocation by the State Director.* The State Director may suballocate to each area office using the methodology and formulas required by 7 CFR part 1940, subpart L. If suballocated to the area level, the Rural Development Manager will make funds available on a first-come, first-served basis to all offices at the field or area level. No field office will have its access to funds restricted without the prior written approval of the Administrator.

B. *Section 504 Housing Loans and Grants.* Section 504 grant funds are included in the Rural Housing Assistance Grant program (RHAG) in the FY 2002 appropriation.

1. *Amount available for allocation.*

Section 504 Loans

Total Available: $32,324,929
Less 5% for 100 Underserved Counties and Colonias: $1,616,247
EZ, EC or REAP Zone Earmark: $1,200,000
Less 5% contingency: $1,600,000
Less General Reserve: $1,500,682
Basic Formula—Administrative Allocation: $26,408,000

Section 504 Grants

Total Available: $30,053,395
Less 5% for 100 Underserved Counties and Colonias: $1,496,700
Less EZ, EC or REAP Earmark: $600,000
Less 5% contingency: $1,400,000
Less General Reserve: $1,619,395
Basic Formula-Administrative Allocation: $24,937,300

2. *Reserves and Set-asides.*

a. *State Office Reserve.* State Directors must maintain an adequate reserve to handle all anticipated hardship applicants based upon historical data and projected demand.

b. *Underserved Counties and Colonias.* Approximately $1.6 million and $1.5 million have been set aside for the 100 underserved counties and colonias until June 30, 2002, for the section 504 loan and grant programs, respectively.

c. *Empowerment Zone (EZ) and Enterprise Community (EC) or Rural Economic Area Partnership (REAP)*

Earmark (Loan Funds Only). Approximately $1.2 million and $600,000 have been earmarked through June 30, 2002, for EZ, EC or REAPs for the section 504 loan and grant programs, respectively.

d. *General Reserve.* $1.5 million for section 504 loan hardships and $1.6 million for section 504 grant extreme hardships have been set-aside in the general reserve. For section 504 grants, an extreme hardship case is one requiring a significant priority in funding, ahead of other requests, due to severe health or safety hazards, or physical needs of the applicant.

INFORMATION ON BASIC FORMULA CRITERIA, DATA SOURCE AND WEIGHT, ADMINISTRATIVE ALLOCATION, POOLING OF FUNDS, AND AVAILABILITY OF THE ALLOCATION

No.	Description	Section 502 non-subsidized guaranteed RH loans	Section 502 direct RH loans	Section 504 loans and grants
1	Basic formula criteria, data source, and weight	See 7 CFR 1940.563(b)	See 7 CFR 1940.565(b)	See 7 CFR 1940.566(b) and 1940.567(b).
2	Administrative Allocation: Western Pacific Area	$1,000,000	$1,000,000	$1,000,000 loan $500,000 grant.
3	Pooling of funds:			
	a. Mid-year pooling	If necessary	If necessary	If necessary.
	b. Year-end pooling	August 16, 2002	August 16, 2002	August 16, 2002.
	c. Underserved counties and colonias	N/A	June 30, 2002	June 30, 2002.
	d. EZ, EC or REAP	N/A	June 30, 2002	June 30, 2002.
	e. Credit sales	N/A	June 30, 2002	N/A.
4	Availability of the allocation:			
	a. first quarter	50 percent	50 percent	50 percent.
	b. second quarter	75 percent	70 percent	70 percent.
	c. third quarter	90 percent	90 percent	90 percent.
	d. fourth quarter	100 percent	100 percent	100 percent.

1. Data derived from the 1990 U.S. Census was provided to each State by the National office on August 12, 1993.
2. Due to the absence of Census data.
3. All dates are tentative and are for the close of business (COB). Pooled funds will be placed in the National office reserve and made available administratively. The Administrator reserves the right to redistribute funds based upon program performance.
4. Funds will be distributed cumulatively through each quarter listed until the National office year-end pooling date.

Dated: February 15, 2002.

James C. Alsop,

Acting Administrator, Rural Housing Service.

BILLING CODE 3410–XV–P

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USDA Rural Development State Directors and State Office Locations

Page 1

ALABAMA	ALASKA	ARIZONA
Mr. Steve Pelham	Mr. Bill Allen	Mr. Eddie Browning
Sterling Centre	Suite 201	Phoenix Corporate Center
4121 Carmichael Road, Suite 601	800 W Evergreen	3003 N Central Avenue, Suite 900
Montgomery, AL 36106-3683	Palmer, AK 99645-6539	Phoenix, AZ 85012-2906
(334) 279-3400	(907)761-7705	(602) 280-8700
ARKANSAS	**CALIFORNIA**	**COLORADO**
Mr. Lawrence McCullough (Acting)	Mr. Charles Clendenin, Acting	Ms. Gigi Dennis
Room 3416	Agency 4169	Room E100
700 W Capitol	430 G Street	655 Parfet Street
Little Rock, AR 72201-3225	Davis, CA 95616-4169	Lakewood, CO 80215
(501) 301-3200	(530) 792-5800	(720) 544-2903
DELAWARE & MARYLAND	**FLORIDA & VIRGIN ISLANDS**	**GEORGIA**
Ms. Marlene B. Elliott	Mr. Glenn Walden (Acting)	Mr. F. Stone Workman
PO Box 400	PO Box 147010	Stephens Federal Building
5201 S DuPont Highway	4440 NW 25th Place	355 E Hancock Avenue
Camden, DE 19934-9998	Gainesville, FL 32614-7010	Athens, GA 30601-2768
(302) 697-4300	(352) 338-3400	(706) 546-2162
HAWAII	**IDAHO**	**ILLINOIS**
Ms. Lorraine Pualani Shin	Mr. Michael A. Field	Mr. Douglas Wilson
Room 311, Federal Building	Suite A1	2118 W. Park Court
154 Waianuenue Avenue	9173 W Barnes Dr	Suite A
Hilo, HI 96720	Boise, ID 83709	Champaign, IL 61821
(808)933-8309	(208) 378-5600	(217) 403-6222
INDIANA	**IOWA**	**KANSAS**
Mr. Robert White	Daniel N. Brown, Ph.D>	Mr. Charles "Chuck" R. Banks
5975 Lakeside Boulevard	873 Federal Bldg	P.O. Box 4653
Indianapolis, IN 46278	210 Walnut Street	1200 SW Executive Drive
(317) 290-3100	Des Moines, IA 50309	Topeka, KS 66604
	(515) 284-4663	(785) 271-2700
KENTUCKY	**LOUISIANA**	**MAINE**
Mr. Kenneth Slone	Mr. Michael Taylor	Mr. Michael W. Aube
Suite 200	3727 Government Street	PO Box 405
771 Corporate Drive	Alexandria, LA 71302	444 Stillwater Avenue, Suite 2
Lexington, KY 40503	(318) 473-7920	Bangor, ME 04402-0405
(859) 224-7300		(207) 990-9106
MASSACHUSETTS, CONN, R. ISL.	**MICHIGAN**	**MINNESOTA**
Mr. David H. Tuttle	Ms. Joanne C. DeVuyst	Mr. Stephen G. Wenzel
451 West Street	Suite 200	410 AgriBank Bldg
Amherst, MA 01002	3001 Coolidge Road	375 Jackson Street
(413) 253-4300	East Lansing, MI 48823	St. Paul, MN 55101-1853
	(517)324-5100	(651) 602-7835

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MISSISSIPPI	MISSOURI	MONTANA
Mr. Nick Walters	Mr. Gregory Branum	Mr. W. T. (Tim) Ryan
Federal Bldg, Suite 831	Parkade Center, Suite 235	Unit 1, Suite B
100 W Capitol Street	601 Business Loop 70 West	900 Technology Boulevard
Jackson, MS 39269	Columbia, MO 65203	Bozeman, MT 59715
(601) 965-4316	(573) 876-0976	(406) 585-2580
NEBRASKA	**NEVADA**	**NEW JERSEY**
Mr. M. James Barr	Mr. Larry J. Smith	Mr. Ernest Grunow
Federal Bldg, Room 152	1390 S Curry Street	Tarnsfield Plaza, Suite 22
100 Centennial Mall N	Carson City, NV 89703-9910	790 Woodlane Road
Lincoln, NE 68508	(702) 887-1222	Mt. Holly, NJ 08060
(402) 437-5551		(609) 265-3600
NEW MEXICO	**NEW YORK**	**NORTH CAROLINA**
Mr. Roberto Salazar	Mr. Patrick H. Brennan	Mr. John Cooper
Room 255	The Galleries of Syracuse	Suite 260
6200 Jefferson Street, NE	441 S Salina Street, Suite 357	4405 Bland Road
Albuquerque, NM 87109	Syracuse, NY 13202-2541	Raleigh, NC 27609
(505) 761-4950	(315) 477-6400	(919) 873-2000
NORTH DAKOTA	**OHIO**	**OKLAHOMA**
Mr. Clare Carlson	Mr. Randall C. Hunt	Mr. Brent J. Kisling
Federal Bldg, Room 208	Federal Bldg, Room 507	Suite 108
220 East Rooser, PO Box 1737	200 N High Street	100 USDA
Bismarck, ND 58502-1737	Columbus, OH 43215-2477	Stillwater, OK 74074-2654
(701) 530-2061	(614) 255-2500	(405) 742-1000
OREGON	**PENNSYLVANIA**	**PUERTO RICO**
Mr. Lynn Schoessler	Mr. Byron E. Ross	Mr. Jose Otero
Suite 1410	Suite 330	New San Juan Off Bldg, Room 501
101 SW Main	One Credit Union Place	159 Carlos E Chardon Street
Portland, OR 97204-3222	Harrisburg, PA 17110-2996	Hato Rey, PR 00918-5481
(503) 414-3300	(717) 237-2299	(787) 766-5095
SOUTH CAROLINA	**SOUTH DAKOTA**	**TENNESSEE**
Mr. Charles Sparks	Mr. Thomas Kostel (Acting)	Ms. Mary (Ruth) Tackett
Strom Thurmond Federal Bldg	Federal Bldg, Room 210	Suite 300
1835 Assembly Street, Room 1007	200 Fourth Street, SW	3322 W End Avenue
Columbia, SC 29201	Huron, SD 57360	Nashville, TN 37203-1084
(803) 765-5163	(605) 352-1100	(615) 783-1300
TEXAS	**UTAH**	**VERMONT & NEW HAMPSHIRE**
Mr. Richard L. Perryman (Acting)	Mr. John R. Cox	Ms. Jolinda H. LaClair
Federal Bldg, Suite 102	Wallace F Bennett Federal Bldg	City Center, 3rd Floor
101 S Main	125 S State Street, Room 4311	89 Main Street
Temple, TX 76501	Salt Lake City, UT 84147	Montpelier, VT 05602
(254) 742-9700	(801) 524-4320	(802) 828-6000

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VIRGINIA	WASHINGTON	WEST VIRGINIA
Joseph W. Newbill	Mr. Jackie J. Gleason	Ms. Jenny N. Phillips
Culpeper Bldg, Suite 238	Suite B	Federal Bldg, Room 320
1606 Santa Rosa Road	1835 Black Lake Blvd, SW	75 High Street
Richmond, VA 23229	Olympia, WA 98512-5715	Morgantown, WV 26505-7500
(804) 287-1550	(360) 704-7740	(304) 291-4791
WISCONSIN	**WYOMING**	
Mr. Frank Frassetto	Mr. John E. Cochran	
4949 Kirschling Court	Federal Building, Room 1005	
Stevens Point, WI 54481	100 East B, PO Box 820	
(715) 345-7600	Casper, WY 82602	
	(307) 261-6300	

December 17, 2001

RURAL HOUSING SERVICE
FISCAL YEAR 2002 ALLOCATION IN THOUSANDS
SECTION 502 DIRECT RURAL HOUSING LOANS

STATES	STATE BASIC FORMULA FACTOR	TOTAL FY 2002 ALLOCATION
1 ALABAMA	0.0267275	$18,144
2 ARIZONA	0.0145422	$9,872
3 ARKANSAS	0.0208104	$14,127
4 CALIFORNIA	0.0454819	$30,876
5 COLORADO	0.0091766	$6,230
6 CONNECTICUT	0.0066693	$4,528
7 DELAWARE	0.0024571	$1,668
9 FLORIDA	0.0312406	$21,208
10 GEORGIA	0.0374586	$25,429
12 IDAHO	0.0076722	$5,208
13 ILLINOIS	0.0266774	$18,110
15 INDIANA	0.0270785	$18,382
16 IOWA	0.0163474	$11,098
18 KANSAS	0.0127369	$8,647
20 KENTUCKY	0.0288838	$19,608
22 LOUISIANA	0.0246715	$16,748
23 MAINE	0.0108314	$7,353
24 MARYLAND	0.0115334	$7,830
25 MASSACHUSETTS	0.0109818	$7,455
26 MICHIGAN	0.0353525	$23,999
27 MINNESOTA	0.0199077	$13,514
28 MISSISSIPPI	0.0250226	$16,987
29 MISSOURI	0.0252733	$17,157
31 MONTANA	0.0063685	$4,323
32 NEBRASKA	0.0086752	$5,889
33 NEVADA	0.0028583	$1,940
34 NEW HAMPSHIRE	0.0072711	$4,936
35 NEW JERSEY	0.0097784	$6,638
36 NEW MEXICO	0.0110320	$7,489
37 NEW YORK	0.0359041	$24,374
38 NORTH CAROLINA	0.0484405	$32,884
40 NORTH DAKOTA	0.0045131	$3,064
41 OHIO	0.0390131	$26,484
42 OKLAHOMA	0.0174005	$11,812
43 OREGON	0.0154949	$10,519
44 PENNSYLVANIA	0.0467857	$31,761
45 RHODE ISLAND	0.0015545	$1,055
46 SOUTH CAROLINA	0.0258249	$17,531
47 SOUTH DAKOTA	0.0062682	$4,255
48 TENNESSEE	0.0291846	$19,812
49 TEXAS	0.0660415	$44,833
52 UTAH	0.0040618	$2,757
53 VERMONT	0.0052653	$3,574
54 VIRGINIA	0.0289841	$19,676
56 WASHINGTON	0.0187042	$12,697
57 WEST VIRGINIA	0.0175008	$11,880
58 WISCONSIN	0.0237188	$16,102
59 WYOMING	0.0036105	$2,451
60 ALASKA	0.0055160	$3,745
61 HAWAII	0.0067195	$4,562
62 W PAC ISLANDS	N/A	$1,000
63 PUERTO RICO	0.0239695	$16,272
64 VIRGIN ISLANDS	0.0020058	$1,362
STATE TOTALS	1.0000000	$679,855
CONTINGENCY FOR RECISSION		$53,000
100 UNDERSERVED COUNTIES/COLONIAS		$53,992
EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY EARMARK		$38,000
GENERAL RESERVE		$145,001
SELF HELP		$110,000
TOTAL		$1,079,848

RURAL HOUSING SERVICE
FISCAL YEAR 2002 ALLOCATION IN THOUSANDS
SECTION 502 DIRECT RURAL HOUSING LOANS

STATES	TOTAL FY 2002 ALLOCATION	VERY LOW-INCOME ALLOCATION 40 PERCENT	LOW-INCOME ALLOCATION 60 PERCENT
1 ALABAMA	$18,144	$7,258	$10,886
2 ARIZONA	$9,872	$3,949	$5,923
3 ARKANSAS	$14,127	$5,651	$8,476
4 CALIFORNIA	$30,876	$12,350	$18,525
5 COLORADO	$6,230	$2,492	$3,738
6 CONNECTICUT	$4,528	$1,811	$2,717
7 DELAWARE	$1,668	$667	$1,001
9 FLORIDA	$21,208	$8,483	$12,725
10 GEORGIA	$25,429	$10,172	$15,257
12 IDAHO	$5,208	$2,083	$3,125
13 ILLINOIS	$18,110	$7,244	$10,866
15 INDIANA	$18,382	$7,353	$11,029
16 IOWA	$11,098	$4,439	$6,659
18 KANSAS	$8,647	$3,459	$5,188
20 KENTUCKY	$19,608	$7,843	$11,765
22 LOUISIANA	$16,748	$6,699	$10,049
23 MAINE	$7,353	$2,941	$4,412
24 MARYLAND	$7,830	$3,132	$4,698
25 MASSACHUSETTS	$7,455	$2,982	$4,473
26 MICHIGAN	$23,999	$9,600	$14,400
27 MINNESOTA	$13,514	$5,406	$8,109
28 MISSISSIPPI	$16,987	$6,795	$10,192
29 MISSOURI	$17,157	$6,863	$10,294
31 MONTANA	$4,323	$1,729	$2,594
32 NEBRASKA	$5,889	$2,356	$3,534
33 NEVADA	$1,940	$776	$1,164
34 NEW HAMPSHIRE	$4,936	$1,974	$2,962
35 NEW JERSEY	$6,638	$2,655	$3,983
36 NEW MEXICO	$7,489	$2,996	$4,493
37 NEW YORK	$24,374	$9,749	$14,624
38 NORTH CAROLINA	$32,884	$13,154	$19,730
40 NORTH DAKOTA	$3,064	$1,225	$1,838
41 OHIO	$26,484	$10,594	$15,891
42 OKLAHOMA	$11,812	$4,725	$7,087
43 OREGON	$10,519	$4,208	$6,311
44 PENNSYLVANIA	$31,761	$12,704	$19,056
45 RHODE ISLAND	$1,055	$422	$633
46 SOUTH CAROLINA	$17,531	$7,013	$10,519
47 SOUTH DAKOTA	$4,255	$1,702	$2,553
48 TENNESSEE	$19,812	$7,925	$11,887
49 TEXAS	$44,833	$17,933	$26,900
52 UTAH	$2,757	$1,103	$1,654
53 VERMONT	$3,574	$1,430	$2,145
54 VIRGINIA	$19,676	$7,870	$11,806
56 WASHINGTON	$12,697	$5,079	$7,618
57 WEST VIRGINIA	$11,880	$4,752	$7,128
58 WISCONSIN	$16,102	$6,441	$9,661
59 WYOMING	$2,451	$980	$1,471
60 ALASKA	$3,745	$1,498	$2,247
61 HAWAII	$4,562	$1,825	$2,737
62 W PAC ISLANDS	$1,000	$400	$600
63 PUERTO RICO	$16,272	$6,509	$9,763
64 VIRGIN ISLANDS	$1,362	$545	$817
STATE TOTALS	$679,855	$271,942	$407,913
Contingency for Recission	$53,000	$21,200	$31,800
100 Underserved Counties and Colonias	$53,992	$21,597	$32,395
EZ/EC/REAP Reserve	$38,000	$15,200	$22,800
General Reserve	$145,001	$83,594	$61,407
Self-Help	$110,000	$61,600	$48,400
TOTAL	$1,079,848	$475,133	$604,715

RURAL HOUSING SERVICE
FISCAL YEAR 2002
ALLOCATION IN THOUSANDS
SECTION 502 GUARANTEED LOANS (NONSUBSIDIZED)

STATES	STATE BASIC FORMULA FACTOR	TOTAL FY 2001 ALLOCATION
ALABAMA	0.0253847	$54,235
ALASKA	0.0061561	$13,153
ARIZONA	0.0155290	$33,178
ARKANSAS	0.0213661	$45,649
CALIFORNIA	0.0524861	$112,136
COLORADO	0.0100701	$21,515
DELAWARE	0.0024043	$5,137
MARYLAND	0.0104750	$22,380
FLORIDA	0.0308357	$65,881
VIRGIN ISLANDS	0.0027236	$5,819
GEORGIA	0.0385293	$82,318
HAWAII	0.0083323	$17,802
W PAC ISLANDS	N/A	$1,000
IDAHO	0.0077774	$16,616
ILLINOIS	0.0256395	$54,779
INDIANA	0.0236023	$50,425
IOWA	0.0151422	$32,351
KANSAS	0.0123032	$26,286
KENTUCKY	0.0286790	$61,273
LOUISIANA	0.0256223	$54,742
MAINE	0.0113916	$24,338
MASSACHUSETTS	0.0117468	$25,097
CONNECTICUT	0.0065708	$14,039
RHODE ISLAND	0.0017216	$3,678
MICHIGAN	0.0337181	$72,039
MINNESOTA	0.0184738	$39,469
MISSISSIPPI	0.0259670	$55,479
MISSOURI	0.0253687	$54,200
MONTANA	0.0067138	$14,344
NEBRASKA	0.0083216	$17,779
NEVADA	0.0029735	$6,353
NEW JERSEY	0.0091825	$19,618
NEW MEXICO	0.0117200	$25,040
NEW YORK	0.0369739	$78,995
NORTH CAROLINA	0.0471742	$100,787
NORTH DAKOTA	0.0040847	$8,727
OHIO	0.0378081	$80,777
OKLAHOMA	0.0175713	$37,541
OREGON	0.0166212	$35,511
PENNSYLVANIA	0.0438367	$93,656
PUERTO RICO	0.0250931	$53,611
SOUTH CAROLINA	0.0249510	$53,308
SOUTH DAKOTA	0.0065435	$13,980
TENNESSEE	0.0276859	$59,151
TEXAS	0.0665018	$142,080
UTAH	0.0039861	$8,516
VERMONT	0.0057475	$12,280
NEW HAMPSHIRE	0.0075234	$16,074
VIRGINIA	0.0278404	$59,481
WASHINGTON	0.0200905	$42,923
WEST VIRGINIA	0.0172518	$36,859
WISCONSIN	0.0222867	$47,616
WYOMING	0.0035006	$7,479
STATE TOTALS	1.0000000	$2,137,500
GENERAL RESERVE		$700,348
SPECIAL OUTREACH AREAS RESERVE		$300,121
TOTAL		$3,137,969

RURAL HOUSING SERVICE
FISCAL YEAR 2002
ALLOCATION IN THOUSANDS
SECTION 504 RURAL HOUSING LOANS

STATES	STATE BASIC FORMULA	TOTAL FY 2002 ALLOCATION
1 ALABAMA	0.0290630	$715
2 ARIZONA	0.0200434	$493
3 ARKANSAS	0.0225489	$555
4 CALIFORNIA	0.0531151	$1,307
5 COLORADO	0.0085185	$210
6 CONNECTICUT	N/A	$100
7 DELAWARE	N/A	$100
9 FLORIDA	0.0295641	$728
10 GEORGIA	0.0395858	$974
12 IDAHO	0.0075163	$185
13 ILLINOIS	0.0225489	$555
15 INDIANA	0.0220478	$543
16 IOWA	0.0130282	$321
18 KANSAS	0.0115250	$284
20 KENTUCKY	0.0320695	$789
22 LOUISIANA	0.0295641	$728
23 MAINE	0.0100217	$247
24 MARYLAND	0.0095206	$234
25 MASSACHUSETTS	0.0080174	$197
26 MICHIGAN	0.0290630	$715
27 MINNESOTA	0.0175380	$432
28 MISSISSIPPI	0.0300651	$740
29 MISSOURI	0.0240521	$592
31 MONTANA	0.0060130	$148
32 NEBRASKA	0.0070152	$173
33 NEVADA	N/A	$100
34 NEW HAMPSHIRE	0.0055119	$136
35 NEW JERSEY	0.0070152	$173
36 NEW MEXICO	0.0150326	$370
37 NEW YORK	0.0285619	$703
38 NORTH CAROLINA	0.0476031	$1,171
40 NORTH DAKOTA	N/A	$100
41 OHIO	0.0330717	$814
42 OKLAHOMA	0.0175380	$432
43 OREGON	0.0150326	$370
44 PENNSYLVANIA	0.0370803	$913
45 RHODE ISLAND	N/A	$100
46 SOUTH CAROLINA	0.0280608	$691
47 SOUTH DAKOTA	0.0060130	$148
48 TENNESSEE	0.0295641	$728
49 TEXAS	0.0781694	$2,591
52 UTAH	N/A	$100
53 VERMONT	0.0045098	$111
54 VIRGINIA	0.0295641	$728
56 WASHINGTON	0.0185402	$456
57 WEST VIRGINIA	0.0180391	$444
58 WISCONSIN	0.0195423	$481
59 WYOMING	N/A	$100
60 ALASKA	0.0080174	$197
61 HAWAII	0.0100217	$247
62 W PAC ISLANDS	N/A	$1,000
63 PUERTO RICO	0.0340738	$839
64 VIRGIN ISLANDS	N/A	$100
STATE TOTALS	1.0000000	$26,408
Contingency for Recission		$1,600
GENERAL RESERVE		$1,500
EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES EARMARK		$1,200
100 UNDERSERVED COUNTIES/COLONIAS		$1,616
TOTAL		$32,324

RURAL HOUSING SERVICE
FISCAL YEAR 2002
ALLOCATION INTHOUSANDS
SECTION 504 RURAL HOUSING GRANTS

STATES	STATE BASIC FORMULA FACTOR	TOTAL FY 2002 ALLOCATION
01 ALABAMA	0.0280565	$681
02 ARIZONA	0.0170343	$413
03 ARKANSAS	0.0223784	$543
04 CALIFORNIA	0.0480968	$1,166
05 COLORADO	0.0083501	$203
06 CONNECTICUT	0.0053441	$130
07 DELAWARE	N/A	$100
09 FLORIDA	0.0340685	$827
10 GEORGIA	0.0367406	$892
12 IDAHO	0.0073481	$178
13 ILLINOIS	0.0263864	$640
15 INDIANA	0.0243824	$592
16 IOWA	0.0163662	$397
18 KANSAS	0.0133602	$324
20 KENTUCKY	0.0297265	$721
22 LOUISIANA	0.0260524	$632
23 MAINE	0.0103542	$251
24 MARYLAND	0.0100202	$243
25 MASSACHUSETTS	0.0096861	$235
26 MICHIGAN	0.0317305	$770
27 MINNESOTA	0.0197063	$478
28 MISSISSIPPI	0.0270545	$657
29 MISSOURI	0.0257184	$624
31 MONTANA	0.0060121	$146
32 NEBRASKA	0.0086841	$211
33 NEVADA	N/A	$100
34 NEW HAMPSHIRE	0.0060121	$146
35 NEW JERSEY	0.0083501	$203
36 NEW MEXICO	0.0123582	$300
37 NEW YORK	0.0323985	$786
38 NORTH CAROLINA	0.0470948	$1,143
40 NORTH DAKOTA	0.0046761	$114
41 OHIO	0.0360726	$875
42 OKLAHOMA	0.0183703	$446
43 OREGON	0.0156983	$381
44 PENNSYLVANIA	0.0437547	$1,062
45 RHODE ISLAND	N/A	$100
46 SOUTH CAROLINA	0.0260524	$632
47 SOUTH DAKOTA	0.0063461	$154
48 TENNESSEE	0.0293925	$713
49 TEXAS	0.0714772	$1,734
52 UTAH	N/A	$100
53 VERMONT	0.0046761	$114
54 VIRGINIA	0.0283905	$689
56 WASHINGTON	0.0183703	$446
57 WEST VIRGINIA	0.0180363	$438
58 WISCONSIN	0.0223783	$543
59 WYOMING	N/A	$100
60 ALASKA	0.0056781	$138
61 HAWAII	0.0076821	$186
62 W PAC ISLANDS	N/A	$500
63 PUERTO RICO	0.0263865	$640
64 VIRGIN ISLANDS	N/A	$100
STATE TOTALS	1.0000000	$24,937
Contingency for Recission		$1,400
GENERAL RESERVE		$1,620
EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES EARMARK		$600
100 UNDERSERVED COUNTIES/COLONIAS		$1,497
TOTAL		$30,053

RURAL HOUSING SERVICE FY 2002
MULTI-FAMILY HOUSING
SECTION 533
HOUSING PRESERVATION GRANT
ALLOCATION IN THOUSANDS

STATE	FORMULA FACTOR	TOTAL ALLOCATION
AL	0.02957	$195,162
AK	0.00587	$38,742
AZ	0.01780	$117,480
AR	0.02310	$152,460
CA	0.04653	$307,098
CO	0.00840	$55,440
DE	0.00190	$12,540
MD	0.00880	$58,080
FL	0.02890	$190,740
GA	0.03867	$255,222
HI	0.00790	$52,140
WPA	0.00647	$42,702
ID	0.00743	$49,038
IL	0.02250	$148,500
IN	0.02157	$142,362
IA	0.01340	$88,440
KS	0.01130	$74,580
KY	0.03483	$229,878
LA	0.03170	$209,220
ME	0.00913	$60,258
MA	0.00793	$52,338
CT	0.00453	$29,898
RI	0.00100	$6,600
MI	0.02977	$196,482
MN	0.01673	$110,418
MS	0.03180	$209,880
MO	0.02460	$162,360
MT	0.00620	$40,920
NE	0.00713	$47,058
NV	0.00263	$17,358
NJ	0.00657	$43,362
NM	0.01437	$94,842
NY	0.02753	$181,698
NC	0.04497	$296,802
ND	0.00413	$27,258
OH	0.03450	$227,700
OK	0.01917	$126,522
OR	0.01423	$93,918
PA	0.03687	$243,342
PR	0.04923	$324,918
SC	0.02690	$177,540
SD	0.00597	$39,402
TN	0.02973	$196,218
TX	0.07645	$504,570
UT	0.00430	$28,380
VT	0.00403	$26,598
NH	0.00503	$33,198
VI	0.00273	$18,018
VA	0.02660	$175,560
WA	0.01743	$115,038
WV	0.01937	$127,842
WI	0.01873	$123,618
WY	0.00307	$20,262
DISTR.	1.00000	$6,600,000
N/O RES.		$782,000
EZ/EC/REAP		$600,000
TTL AVAIL.		$7,982,000

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Federal Register

Monday,
February 25, 2002

Part IV

Department of Interior

Bureau of Land Management

Resource Management Plans; Pinedale and Rawlins, Wyoming; Notice

DEPARTMENT OF INTERIOR

Bureau of Land Management

[WY–030–02–1610; WY–100–02–1610]

Resource Management Plans; Pinedale and Rawlins, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Revise the Pinedale Resource Management Plan (RMP) and Call for Coal and Other Resource Information for the Bureau of Land Management (BLM) Pinedale Field Office, Pinedale, Wyoming.

SUMMARY: The BLM Pinedale Field Office is initiating a revision of the Pinedale Resource Management Plan (RMP) to guide future management actions on the public lands within the Pinedale Field Office administrative (or management) area. The existing Pinedale RMP will continue to guide management actions and decisions for the Pinedale Field Office until the RMP revision is completed.

The revised RMP will be a comprehensive land use plan that will allocate and identify allowable public land and resource uses, land use and resource condition management goals, public land and resource use conditional requirements, and general management practices needed to achieve RMP objectives. It will also identify lands available for consideration for transfer from BLM jurisdiction (via public disposition or transfer to another agency). Requirements, standards, and procedures for preparing RMPs are contained in 43 CFR 1600, BLM Manual 1601 and BLM Handbook H–1601–1. The BLM Washington Office provides further guidance for BLM land use planning. The BLM Wyoming State Office will continue to provide guidance for land use planning in the ten Field Offices in the State of Wyoming to guide BLM managers in producing balanced public land and resource use decisions that meet requirements of law and regulation. The Pinedale Field Office will develop planning criteria applicable to the planning effort to provide the public a preview of the types of considerations that will be made in developing the RMP decisions for the planning area.

Freedom of Information Act Considerations: Public comments submitted for this planning effort, including names and street addresses of respondents, will be available for public review in their entirety after comment periods close, during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays, at the Pinedale Field Office. If you wish to withhold your name or 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 or officials representing organizations or businesses, will be made available for public inspection in their entirety.

DATES: This initial call for coal and other resource information and identification of issues for this planning effort will be open for 60 days, and will commence with the date following publication of this notice in the **Federal Register**. Notification of future scoping activities and meetings and other meetings or hearings and any other public involvement activities that may be scheduled during the course of the planning effort will be handled through public notices, media news releases, internet postings, or mailings.

The purpose of this call for resource data, issues, and concerns is to help BLM identify specific problems, concerns, and issues pertaining to the various resource and land use values in the Pinedale planning area and to help identify any data gaps, data needs, and data sources pertaining to the planning area. This planning effort is scheduled to be completed by the fall of 2004.

ADDRESSES: Documentation of the planning process and completed documents for the Pinedale RMP planning area will be available at 432 East Mill Street, P.O. Box 768, Pinedale, Wyoming 82941–0768. All comments must include legible full name and address on the envelope, letter, or postcard.

FOR FURTHER INFORMATION CONTACT: If you wish to be placed on the Pinedale RMP mailing list, or if you wish to comment on the preliminary list of public land and resource problems, conflicts, concerns, or issues being considered in the Pinedale RMP revision, contact Kellie Roadifer, Pinedale RMP team leader, at the Pinedale address above or phone (307) 367–5309.

SUPPLEMENTARY INFORMATION: The current Pinedale RMP provides guidance and direction for management of approximately 931,000 acres of BLM-administered public land surface and 1,185,000 acres of BLM-administered Federal mineral estate in Sublette, Lincoln, and Fremont counties, Wyoming. Approximately 919,000 acres are both Federal surface and Federal mineral estate. The Pinedale RMP planning area includes two wilderness study areas (WSA—Scab Creek and Lake Mountain). These have been addressed in separate environmental impact statement (EIS) documents and will not be addressed in the revision of the Pinedale RMP. There are two areas of critical environmental concern (ACEC—Rock Creek and Beaver Creek), and three special recreation management areas (SRMAs —Scab Creek, Upper Green River, and Boulder Lake). Revision of the Pinedale RMP may result in altering the designation of these ACECs and SRMAs, and the management prescriptions for these areas could also change. The potential for additional special management areas will be explored, and if any other areas are nominated for special mnagement area designation, they will be considered in the EIS for the planning effort.

To date, the BLM has identified eight preliminary issues associated with the existing management direction provided by the Pinedale RMP. The BLM invites the public to comment on these preliminary issues and to identify any additional issues, concerns, problems or conflicts that should be considered in the Pinedale RMP revision effort. Comments should be sent to the Pinedale address above.

Issue 1: Potential Conflicts Between Mineral Exploration and Development Activities and Other Land and Resource Uses and Values

Isssue 2: Limited Accessability to Public Lands and Resources and Land Tenure Adjustments

Issue 3: Conflicting Demands for Consumptive and Non-consumptive Vegetation Uses

Issue 4: Potential Conflicts of Various Public Land and Resource Uses with Recreation, Cultural Resources (including National Historic Trails) and Paleontological Resources

Issue 5: Wildland/Urban Interface Concerns

Issue 6: Special Status Plant and Animal Species Management

Issue 7: Concerns for Maintaining or Improving Water Quality and Meeting State and Federal Water Quality Standards

Issue 8: Special Management Area Designations or Changes

The BLM is requesting the public to help identify additional problems and conflicts and resource management opportunities that should also be addressed in the Pinedale RMP Revision process.

This notice includes a request for any available resource information and data pertaining to the Pinedale RMP

planning area. The purposes of this request are (1) to assure that the planning effort has sufficient information and data to consider the fullest possible range of public land and resource uses, management options and alternatives, and (2) to include the call for coal resource information required by the Federal Coal Regulations (43 CFR 3420.1–2).

The call for coal resource information in the Pinedale RMP planning area is primarily to update information on areas where coal occurs. There is little, if any, known potential for or interest in developing coal in the Pinedale RMP planning area. However, identifying the areas of coal occurrence is necessary to address potential coal bed methane development.

The usual purpose of the call for coal resource information is to obtain any available coal resource data and any other resource information pertinent to applying the coal unsuitability criteria, and to identify any areas of interest for possible Federal coal leasing. Coal resource information submissions would assist the BLM in determining those areas with coal development potential. As a part of the RMP planning process, the coal screening/coal planning procedures would be conducted on those areas with Federal coal development potential to determine which Federal coal areas are acceptable for further consideration for leasing. Identification at this time of definite interests in future leasing of Federal coal in the Pinedale RMP planning area, substantiated with adequate coal resource data, would allow the BLM to address this potential during the planning effort and possibly avoid unnecessary work, delays, or amendments to the RMP in the near future.

Some of the Pinedale RMP planning area is within the Green River-Hams Fork Coal Production Region. A Notice that the coal region was decertified was published in the **Federal Register**, Vol. 53, No. 77, April 21, 1988. Federal coal leasing regulations contained in 43 CFR 3425 are now in effect and coal reserves in the Pinedale RMP planning area are subject to potential ''leasing by application''. This type of coal leasing is essentially done on a case-by-case basis rather than through the regional leasing process under 43 CFR 3420. Note that the sale and issuance of Federal coal leases under these provisions is still done through a competitive bidding process.

The BLM has very limited capability to conduct additional coal or other resource inventories in the planning area. Thus, parties interested in Federal coal leasing and development or in coal bed methane exploration and development will be expected to provide coal resource data for their areas of interest. The schedule for completing this planning effort requires that areas of interest and coal resource data must be submitted within 60 days following publication of this notice. If coal resource data is insufficient or unavailable for your area(s) of interest at this time, but can be obtained in 2002, the BLM will accept, until April 30, 2002, an estimate of the extent and locations of the coal resource and a schedule for providing the data. The adequacy and timing of the coal resource information provided will determine the extent to which the Federal coal resource, its development potential and coal bed methane development potential may be addressed in this planning effort.

Public participation will be an essential component of this planning effort. Several techniques for providing public involvement opportunities will be used during the planning process, including: **Federal Register** announcements, one-on-one discussion with interested groups and individuals, internet postings, articles in local news media, and individual mailings to all parties who have expressed an interest in the process. For those persons wishing to be placed on the Pinedale mailing list, notify the BLM contact provided in the **ADDRESSES** section of this notice.

Dated: January 17, 2002.

Alan R. Pierson,

State Director.

[FR Doc. 02–4494 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[WY–030–02–1610; WY–100–02–1610]

Great Divide Resource Management Plan; Rawlins, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent To Revise The Great Divide Resource Management Plan (RMP) and Call for Coal and Other Resource Information for the Bureau of Land Management (BLM) Rawlins Field Office, Rawlins, Wyoming.

SUMMARY: The BLM Rawlins Field Office is initiating a revision of the Great Divide Resource Management Plan (RMP) to guide future management actions on the public lands within the Rawlins Field Office administrative (or management) area. The existing Great Divide RMP will continue to guide management actions and decisions for the Rawlins Field Office until the RMP revision is completed.

The revised RMP will be a comprehensive land use plan that will allocate and identify allowable public land and resource uses, land use and resource condition management goals, public land and resource use conditional requirements, and general management practices needed to achieve RMP objectives. It will also identify lands available for consideration for transfer from BLM jurisdiction (via public disposition or transfer to another agency).

Requirements, standards, and procedures for preparing RMPs are contained in 43 CFR 1600, BLM Manual 1601, and BLM Handbook H–1601–1. The BLM Washington Office will provide further guidance on nationwide standards for BLM land use planning. The BLM Wyoming State Office will continue to provide guidance for land use planning in the ten Field Offices in the State of Wyoming to guide BLM managers in producing balanced public land and resource use decisions that meet requirements of law and regulation. The Rawlins Field Office will develop planning criteria applicable to the planning effort to provide the public a preview of the types of considerations that will be made in developing the RMP decisions for the planning area.

Freedom of Information Act Considerations: Public comments submitted for this planning effort, including names and street addresses of respondents, will be available for public review in their entirety after comment periods close, during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays, at the Rawlins Field Office. If you wish to withhold your name or 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 or officials representing organizations or businesses, will be made available for public inspection in their entirety.

DATES: This initial call for coal and other resource information and identification of issues for this planning effort will be open for 60 days and will commence with the publication of this notice in the **Federal Register**.

Notification of future scoping activities and meetings and other meetings or hearings and any other public involvement activities that may be scheduled during the course of the planning effort will be handled through public notices, media news releases, internet postings, or mailings.

The purpose of this call for resource data, issues and concerns is to help BLM identify specific problems, concerns, and issues pertaining to the various resource and land use values in the Rawlins planning area and to help identify any data gaps, data needs, and data sources pertaining to the planning area. This planning effort is scheduled to be completed by the fall of 2004.

ADDRESSES: Documentation of the planning process and completed documents for the Rawlins RMP planning area will be available at 1300 North Third Street, P.O. Box 2407, Rawlins, Wyoming 82301–2407. All comments must include legible full name and address on the envelope, letter, or postcard.

FOR FURTHER INFORMATION CONTACT: If you wish to be placed on the Rawlins RMP mailing list, or if you wish to comment on the preliminary list of public land and resource problems, conflicts, concerns, or issues being considered in the Rawlins RMP (currently known as the Great Divide RMP) revision, contact John Spehar, Rawlins RMP team leader, at the Rawlins address above or phone (307) 328–4264.

SUPPLEMENTARY INFORMATION: The current Great Divide RMP provides management guidance and direction for approximately four million acres of BLM-administered public land surface and five million acres of BLM-administered federal mineral estate in Albany, Carbon, Laramie, and Sweetwater counties. When the Great Divide RMP is revised, it will be renamed the Rawlins RMP to be consistent with the current organizational structure and naming of BLM land use plans in Wyoming.

The Rawlins RMP planning area includes five wilderness study areas (WSAs—Encampment River Canyon, Prospect Mountain, Bennett Mountains, Adobe Town, Ferris Mountain), four areas of critical environmental concern (ACECs—Jep Canyon, Como Bluff, Shamrock Hills, Sand Hills), and three special recreation management areas (SRMAs—Continental Divide National Scenic Trail, North Platte River, Shirley Mountain Caves). Revision of the Rawlins RMP may result in altering the designation of these ACECs and SRMAs, and the management prescriptions for these areas could also change. The potential for additional special management areas will be explored, and if any other areas are nominated for special management area designation, they will be considered in the EIS for the planning effort.

To date, the BLM has identified eight preliminary issues associated with the existing management direction provided by the Great Divide (Rawlins) RMP. The BLM invites the public to comment on these preliminary issues and to identify any additional issues, concerns, problems or conflicts that should be considered in the Rawlins RMP revision effort. Comments should be sent to the Rawlins address above.

Issue 1: Potential Conflicts Between Mineral Exploration and Development Activities and Other Land and Resource Uses and Values

Issue 2: Special Management Area Designations or Changes

Issue 3: Access Limitations to Public Lands and Resources

Issue 4: Wildland/Urban Interface Concerns

Issue 5: Special Status Plant and Animal Species Management

Issue 6: Concerns for Maintaining or Improving Water Quality and Meeting State and Federal Water Quality Standards

Issue 7: Conflicting Demands for Consumptive and Non-consumptive Vegetation Uses

Issue 8: Potential Conflicts of Various Public Land and Resource Uses with Recreation, Cultural Resources (including National Historic Trails) and Paleontological Resources

The BLM is requesting the public to help identify additional problems and conflicts and resource management opportunities that should also be addressed in the Rawlins RMP revision process.

This notice includes a request for any available resource information and data pertaining to the Rawlins RMP planning area. The purposes of this request are (1) to assure that the planning effort has sufficient information and data to consider the fullest possible range of public land and resource uses, management options and alternatives, and (2) to include the call for coal resource information required by the Federal Coal Regulations (43 CFR 3420.1–2).

The call for coal resource information is issued to obtain any available coal resource data and any other resource information pertinent to applying the coal unsuitability criteria, and to identify any additional areas of interest for possible Federal coal leasing in the Rawlins RMP planning area. Coal resource information submissions will assist the BLM in determining those areas with coal development potential. As appropriate and as part of the Rawlins RMP planning process, the coal screening/coal planning procedures will be conducted on those areas with Federal coal development potential to determine which Federal coal areas are acceptable for further consideration for leasing. This coal resource information will also be pertinent to addressing potential coal bed methane development areas.

Some of the Rawlins RMP planning area is within the Green River-Hams Fork Coal Production Region. A Notice that the coal region was decertified was published in the **Federal Register**, Vol. 53, No. 77, April 21, 1988. Federal coal leasing regulations contained in 43 CFR 3425 are now in effect and coal reserves in the Rawlins RMP planning area are now subject to ''leasing by application''. This type of coal leasing is essentially done on a case-by-case basis, rather than through the regional leasing process under 43 CFR 3420. Note that the sale and issuance of federal coal leases under these provisions is still done through a competitive bidding process.

Identification at this time of definite interests in future leasing of Federal coal in the Rawlins RMP planning area, substantiated with adequate coal resource data, will allow the BLM to address this potential during the planning effort and possibly avoid unnecessary work, delays, or amendments to the RMP in the near future.

The BLM has very limited capability to conduct additional coal or other resource inventories in the planning area. Thus, parties interested in federal coal leasing and development or in coal bed methane exploration and development will be expected to provide coal resource data for their areas of interest. The schedule for completing this planning effort requires that areas of interest and coal resource data must be submitted within 60 days following publication of this notice. If coal resource data are insufficient or unavailable for your area(s) of interest at this time, but can be obtained in 2002, the BLM will accept, until April 30, 2002, an estimate of the extent and locations of the coal resource and a schedule for providing the data. The adequacy and timing of the coal resource information provided will determine the extent to which the Federal coal resource, its development potential and coal bed methane development potential may be addressed in this planning effort.

Public participation will be an essential component of this planning effort. Several techniques for providing public involvement opportunities will be used during the planning process, including: **Federal Register** announcements, one-on-one discussion with interested groups and individuals, internet postings, articles in local news media, and individual mailings to all parties who have expressed an interest in the process. For those persons wishing to be placed on the Rawlins mailing list, notify the BLM contact provided in the **ADDRESSES** section of this notice.

Dated: January 17, 2002.

Alan R. Pierson,

State Director.

[FR Doc. 02–4495 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–22–P

Federal Register

Monday,
February 25, 2002

Part IV

Department of Interior

Bureau of Land Management

Resource Management Plans; Pinedale and Rawlins, Wyoming; Notice

DEPARTMENT OF INTERIOR

Bureau of Land Management

[WY–030–02–1610; WY–100–02–1610]

Resource Management Plans; Pinedale and Rawlins, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Revise the Pinedale Resource Management Plan (RMP) and Call for Coal and Other Resource Information for the Bureau of Land Management (BLM) Pinedale Field Office, Pinedale, Wyoming.

SUMMARY: The BLM Pinedale Field Office is initiating a revision of the Pinedale Resource Management Plan (RMP) to guide future management actions on the public lands within the Pinedale Field Office administrative (or management) area. The existing Pinedale RMP will continue to guide management actions and decisions for the Pinedale Field Office until the RMP revision is completed.

The revised RMP will be a comprehensive land use plan that will allocate and identify allowable public land and resource uses, land use and resource condition management goals, public land and resource use conditional requirements, and general management practices needed to achieve RMP objectives. It will also identify lands available for consideration for transfer from BLM jurisdiction (via public disposition or transfer to another agency). Requirements, standards, and procedures for preparing RMPs are contained in 43 CFR 1600, BLM Manual 1601 and BLM Handbook H–1601–1. The BLM Washington Office provides further guidance for BLM land use planning. The BLM Wyoming State Office will continue to provide guidance for land use planning in the ten Field Offices in the State of Wyoming to guide BLM managers in producing balanced public land and resource use decisions that meet requirements of law and regulation. The Pinedale Field Office will develop planning criteria applicable to the planning effort to provide the public a preview of the types of considerations that will be made in developing the RMP decisions for the planning area.

Freedom of Information Act Considerations: Public comments submitted for this planning effort, including names and street addresses of respondents, will be available for public review in their entirety after comment periods close, during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays, at the Pinedale Field Office. If you wish to withhold your name or 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 or officials representing organizations or businesses, will be made available for public inspection in their entirety.

DATES: This initial call for coal and other resource information and identification of issues for this planning effort will be open for 60 days, and will commence with the date following publication of this notice in the **Federal Register**. Notification of future scoping activities and meetings and other meetings or hearings and any other public involvement activities that may be scheduled during the course of the planning effort will be handled through public notices, media news releases, internet postings, or mailings.

The purpose of this call for resource data, issues, and concerns is to help BLM identify specific problems, concerns, and issues pertaining to the various resource and land use values in the Pinedale planning area and to help identify any data gaps, data needs, and data sources pertaining to the planning area. This planning effort is scheduled to be completed by the fall of 2004.

ADDRESSES: Documentation of the planning process and completed documents for the Pinedale RMP planning area will be available at 432 East Mill Street, P.O. Box 768, Pinedale, Wyoming 82941–0768. All comments must include legible full name and address on the envelope, letter, or postcard.

FOR FURTHER INFORMATION CONTACT: If you wish to be placed on the Pinedale RMP mailing list, or if you wish to comment on the preliminary list of public land and resource problems, conflicts, concerns, or issues being considered in the Pinedale RMP revision, contact Kellie Roadifer, Pinedale RMP team leader, at the Pinedale address above or phone (307) 367–5309.

SUPPLEMENTARY INFORMATION: The current Pinedale RMP provides guidance and direction for management of approximately 931,000 acres of BLM-administered public land surface and 1,185,000 acres of BLM-administered Federal mineral estate in Sublette, Lincoln, and Fremont counties, Wyoming. Approximately 919,000 acres are both Federal surface and Federal mineral estate. The Pinedale RMP planning area includes two wilderness study areas (WSA—Scab Creek and Lake Mountain). These have been addressed in separate environmental impact statement (EIS) documents and will not be addressed in the revision of the Pinedale RMP. There are two areas of critical environmental concern (ACEC—Rock Creek and Beaver Creek), and three special recreation management areas (SRMAs —Scab Creek, Upper Green River, and Boulder Lake). Revision of the Pinedale RMP may result in altering the designation of these ACECs and SRMAs, and the management prescriptions for these areas could also change. The potential for additional special management areas will be explored, and if any other areas are nominated for special mnagement area designation, they will be considered in the EIS for the planning effort.

To date, the BLM has identified eight preliminary issues associated with the existing management direction provided by the Pinedale RMP. The BLM invites the public to comment on these preliminary issues and to identify any additional issues, concerns, problems or conflicts that should be considered in the Pinedale RMP revision effort. Comments should be sent to the Pinedale address above.

Issue 1: Potential Conflicts Between Mineral Exploration and Development Activities and Other Land and Resource Uses and Values

Isssue 2: Limited Accessability to Public Lands and Resources and Land Tenure Adjustments

Issue 3: Conflicting Demands for Consumptive and Non-consumptive Vegetation Uses

Issue 4: Potential Conflicts of Various Public Land and Resource Uses with Recreation, Cultural Resources (including National Historic Trails) and Paleontological Resources

Issue 5: Wildland/Urban Interface Concerns

Issue 6: Special Status Plant and Animal Species Management

Issue 7: Concerns for Maintaining or Improving Water Quality and Meeting State and Federal Water Quality Standards

Issue 8: Special Management Area Designations or Changes

The BLM is requesting the public to help identify additional problems and conflicts and resource management opportunities that should also be addressed in the Pinedale RMP Revision process.

This notice includes a request for any available resource information and data pertaining to the Pinedale RMP

planning area. The purposes of this request are (1) to assure that the planning effort has sufficient information and data to consider the fullest possible range of public land and resource uses, management options and alternatives, and (2) to include the call for coal resource information required by the Federal Coal Regulations (43 CFR 3420.1–2).

The call for coal resource information in the Pinedale RMP planning area is primarily to update information on areas where coal occurs. There is little, if any, known potential for or interest in developing coal in the Pinedale RMP planning area. However, identifying the areas of coal occurrence is necessary to address potential coal bed methane development.

The usual purpose of the call for coal resource information is to obtain any available coal resource data and any other resource information pertinent to applying the coal unsuitability criteria, and to identify any areas of interest for possible Federal coal leasing. Coal resource information submissions would assist the BLM in determining those areas with coal development potential. As a part of the RMP planning process, the coal screening/coal planning procedures would be conducted on those areas with Federal coal development potential to determine which Federal coal areas are acceptable for further consideration for leasing. Identification at this time of definite interests in future leasing of Federal coal in the Pinedale RMP planning area, substantiated with adequate coal resource data, would allow the BLM to address this potential during the planning effort and possibly avoid unnecessary work, delays, or amendments to the RMP in the near future.

Some of the Pinedale RMP planning area is within the Green River-Hams Fork Coal Production Region. A Notice that the coal region was decertified was published in the **Federal Register**, Vol. 53, No. 77, April 21, 1988. Federal coal leasing regulations contained in 43 CFR 3425 are now in effect and coal reserves in the Pinedale RMP planning area are subject to potential ''leasing by application''. This type of coal leasing is essentially done on a case-by-case basis rather than through the regional leasing process under 43 CFR 3420. Note that the sale and issuance of Federal coal leases under these provisions is still done through a competitive bidding process.

The BLM has very limited capability to conduct additional coal or other resource inventories in the planning area. Thus, parties interested in Federal coal leasing and development or in coal bed methane exploration and development will be expected to provide coal resource data for their areas of interest. The schedule for completing this planning effort requires that areas of interest and coal resource data must be submitted within 60 days following publication of this notice. If coal resource data is insufficient or unavailable for your area(s) of interest at this time, but can be obtained in 2002, the BLM will accept, until April 30, 2002, an estimate of the extent and locations of the coal resource and a schedule for providing the data. The adequacy and timing of the coal resource information provided will determine the extent to which the Federal coal resource, its development potential and coal bed methane development potential may be addressed in this planning effort.

Public participation will be an essential component of this planning effort. Several techniques for providing public involvement opportunities will be used during the planning process, including: **Federal Register** announcements, one-on-one discussion with interested groups and individuals, internet postings, articles in local news media, and individual mailings to all parties who have expressed an interest in the process. For those persons wishing to be placed on the Pinedale mailing list, notify the BLM contact provided in the **ADDRESSES** section of this notice.

Dated: January 17, 2002.

Alan R. Pierson,

State Director.

[FR Doc. 02–4494 Filed 2–22–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[WY–030–02–1610; WY–100–02–1610]

Great Divide Resource Management Plan; Rawlins, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent To Revise The Great Divide Resource Management Plan (RMP) and Call for Coal and Other Resource Information for the Bureau of Land Management (BLM) Rawlins Field Office, Rawlins, Wyoming.

SUMMARY: The BLM Rawlins Field Office is initiating a revision of the Great Divide Resource Management Plan (RMP) to guide future management actions on the public lands within the Rawlins Field Office administrative (or management) area. The existing Great Divide RMP will continue to guide management actions and decisions for the Rawlins Field Office until the RMP revision is completed.

The revised RMP will be a comprehensive land use plan that will allocate and identify allowable public land and resource uses, land use and resource condition management goals, public land and resource use conditional requirements, and general management practices needed to achieve RMP objectives. It will also identify lands available for consideration for transfer from BLM jurisdiction (via public disposition or transfer to another agency).

Requirements, standards, and procedures for preparing RMPs are contained in 43 CFR 1600, BLM Manual 1601, and BLM Handbook H–1601–1. The BLM Washington Office will provide further guidance on nationwide standards for BLM land use planning. The BLM Wyoming State Office will continue to provide guidance for land use planning in the ten Field Offices in the State of Wyoming to guide BLM managers in producing balanced public land and resource use decisions that meet requirements of law and regulation. The Rawlins Field Office will develop planning criteria applicable to the planning effort to provide the public a preview of the types of considerations that will be made in developing the RMP decisions for the planning area.

Freedom of Information Act Considerations: Public comments submitted for this planning effort, including names and street addresses of respondents, will be available for public review in their entirety after comment periods close, during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays, at the Rawlins Field Office. If you wish to withhold your name or 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 or officials representing organizations or businesses, will be made available for public inspection in their entirety.

DATES: This initial call for coal and other resource information and identification of issues for this planning effort will be open for 60 days and will commence with the publication of this notice in the **Federal Register**.

Notification of future scoping activities and meetings and other meetings or hearings and any other public involvement activities that may be scheduled during the course of the planning effort will be handled through public notices, media news releases, internet postings, or mailings.

The purpose of this call for resource data, issues and concerns is to help BLM identify specific problems, concerns, and issues pertaining to the various resource and land use values in the Rawlins planning area and to help identify any data gaps, data needs, and data sources pertaining to the planning area. This planning effort is scheduled to be completed by the fall of 2004.

ADDRESSES: Documentation of the planning process and completed documents for the Rawlins RMP planning area will be available at 1300 North Third Street, P.O. Box 2407, Rawlins, Wyoming 82301–2407. All comments must include legible full name and address on the envelope, letter, or postcard.

FOR FURTHER INFORMATION CONTACT: If you wish to be placed on the Rawlins RMP mailing list, or if you wish to comment on the preliminary list of public land and resource problems, conflicts, concerns, or issues being considered in the Rawlins RMP (currently known as the Great Divide RMP) revision, contact John Spehar, Rawlins RMP team leader, at the Rawlins address above or phone (307) 328–4264.

SUPPLEMENTARY INFORMATION: The current Great Divide RMP provides management guidance and direction for approximately four million acres of BLM-administered public land surface and five million acres of BLM-administered federal mineral estate in Albany, Carbon, Laramie, and Sweetwater counties. When the Great Divide RMP is revised, it will be renamed the Rawlins RMP to be consistent with the current organizational structure and naming of BLM land use plans in Wyoming.

The Rawlins RMP planning area includes five wilderness study areas (WSAs—Encampment River Canyon, Prospect Mountain, Bennett Mountains, Adobe Town, Ferris Mountain), four areas of critical environmental concern (ACECs—Jep Canyon, Como Bluff, Shamrock Hills, Sand Hills), and three special recreation management areas (SRMAs—Continental Divide National Scenic Trail, North Platte River, Shirley Mountain Caves). Revision of the Rawlins RMP may result in altering the designation of these ACECs and SRMAs, and the management prescriptions for these areas could also change. The potential for additional special management areas will be explored, and if any other areas are nominated for special management area designation, they will be considered in the EIS for the planning effort.

To date, the BLM has identified eight preliminary issues associated with the existing management direction provided by the Great Divide (Rawlins) RMP. The BLM invites the public to comment on these preliminary issues and to identify any additional issues, concerns, problems or conflicts that should be considered in the Rawlins RMP revision effort. Comments should be sent to the Rawlins address above.

Issue 1: Potential Conflicts Between Mineral Exploration and Development Activities and Other Land and Resource Uses and Values

Issue 2: Special Management Area Designations or Changes

Issue 3: Access Limitations to Public Lands and Resources

Issue 4: Wildland/Urban Interface Concerns

Issue 5: Special Status Plant and Animal Species Management

Issue 6: Concerns for Maintaining or Improving Water Quality and Meeting State and Federal Water Quality Standards

Issue 7: Conflicting Demands for Consumptive and Non-consumptive Vegetation Uses

Issue 8: Potential Conflicts of Various Public Land and Resource Uses with Recreation, Cultural Resources (including National Historic Trails) and Paleontological Resources

The BLM is requesting the public to help identify additional problems and conflicts and resource management opportunities that should also be addressed in the Rawlins RMP revision process.

This notice includes a request for any available resource information and data pertaining to the Rawlins RMP planning area. The purposes of this request are (1) to assure that the planning effort has sufficient information and data to consider the fullest possible range of public land and resource uses, management options and alternatives, and (2) to include the call for coal resource information required by the Federal Coal Regulations (43 CFR 3420.1–2).

The call for coal resource information is issued to obtain any available coal resource data and any other resource information pertinent to applying the coal unsuitability criteria, and to identify any additional areas of interest for possible Federal coal leasing in the Rawlins RMP planning area. Coal resource information submissions will assist the BLM in determining those areas with coal development potential. As appropriate and as part of the Rawlins RMP planning process, the coal screening/coal planning procedures will be conducted on those areas with Federal coal development potential to determine which Federal coal areas are acceptable for further consideration for leasing. This coal resource information will also be pertinent to addressing potential coal bed methane development areas.

Some of the Rawlins RMP planning area is within the Green River-Hams Fork Coal Production Region. A Notice that the coal region was decertified was published in the **Federal Register**, Vol. 53, No. 77, April 21, 1988. Federal coal leasing regulations contained in 43 CFR 3425 are now in effect and coal reserves in the Rawlins RMP planning area are now subject to ''leasing by application''. This type of coal leasing is essentially done on a case-by-case basis, rather than through the regional leasing process under 43 CFR 3420. Note that the sale and issuance of federal coal leases under these provisions is still done through a competitive bidding process.

Identification at this time of definite interests in future leasing of Federal coal in the Rawlins RMP planning area, substantiated with adequate coal resource data, will allow the BLM to address this potential during the planning effort and possibly avoid unnecessary work, delays, or amendments to the RMP in the near future.

The BLM has very limited capability to conduct additional coal or other resource inventories in the planning area. Thus, parties interested in federal coal leasing and development or in coal bed methane exploration and development will be expected to provide coal resource data for their areas of interest. The schedule for completing this planning effort requires that areas of interest and coal resource data must be submitted within 60 days following publication of this notice. If coal resource data are insufficient or unavailable for your area(s) of interest at this time, but can be obtained in 2002, the BLM will accept, until April 30, 2002, an estimate of the extent and locations of the coal resource and a schedule for providing the data. The adequacy and timing of the coal resource information provided will determine the extent to which the Federal coal resource, its development potential and coal bed methane development potential may be addressed in this planning effort.

Public participation will be an essential component of this planning effort. Several techniques for providing public involvement opportunities will be used during the planning process, including: **Federal Register** announcements, one-on-one discussion with interested groups and individuals, internet postings, articles in local news media, and individual mailings to all parties who have expressed an interest in the process. For those persons wishing to be placed on the Rawlins mailing list, notify the BLM contact provided in the **ADDRESSES** section of this notice.

Dated: January 17, 2002.

Alan R. Pierson,

State Director.

[FR Doc. 02–4495 Filed 2–22–02; 8:45 am]

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Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
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Legal assistance eligibility; maximum income guidelines; published 2-25-02

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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H.J. Res. 82/P.L. 107–143

Recognizing the 91st birthday of Ronald Reagan. (Feb. 14, 2002; 116 Stat. 17)

S. 737/P.L. 107–144

To designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the ''Joseph E. Dini, Jr. Post Office''. (Feb. 14, 2002; 116 Stat. 18)

S. 970/P.L. 107–145

To designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the ''Horatio King Post Office Building''. (Feb. 14, 2002; 116 Stat. 19)

S. 1026/P.L. 107–146

To designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the ''Pat King Post Office Building''. (Feb. 14, 2002; 116 Stat. 20)

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300–499	(869–044–00063–6)	27.00	Apr. 1, 2001
500–599	(869–044–00064–4)	44.00	Apr. 1, 2001
600–799	(869–044–00065–2)	15.00	Apr. 1, 2001
800–1299	(869–044–00066–1)	52.00	Apr. 1, 2001
1300–End	(869–044–00067–9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1, 2001
300–End	(869–044–00069–5)	42.00	Apr. 1, 2001
23	(869–044–00070–9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869–044–00071–7)	53.00	Apr. 1, 2001
200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
500–699	(869–044–00073–3)	27.00	Apr. 1, 2001
700–1699	(869–044–00074–1)	55.00	Apr. 1, 2001
1700–End	(869–044–00075–0)	28.00	Apr. 1, 2001
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–044–00079–2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869–044–00080–6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869–044–00081–4)	58.00	Apr. 1, 2001
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869–044–00085–7)	54.00	Apr. 1, 2001
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–044–00090–3)	37.00	Apr. 1, 2001
40–49	(869–044–00091–1)	25.00	Apr. 1, 2001
50–299	(869–044–00092–0)	23.00	Apr. 1, 2001
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5] Apr. 1, 2001
600–End	(869–044–00095–4)	15.00	Apr. 1, 2001
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001

Title	Stock Number	Price	Revision Date
200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869–044–00098–9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–044–00100–4)	45.00	July 1, 2001
100–499	(869–044–00101–2)	14.00	[6]July 1, 2001
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
900–1899	(869–044–00103–9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869–044–00104–7)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–044–00107–1)	45.00	July 1, 2001
1927–End	(869–044–00108–0)	55.00	July 1, 2001
30 Parts:			
1–199	(869–044–00109–8)	52.00	July 1, 2001
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
0–199	(869–044–00112–8)	32.00	July 1, 2001
200–End	(869–044–00113–6)	56.00	July 1, 2001
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–044–00116–8)	35.00	[6]July 1, 2001
630–699	(869–044–00117–9)	34.00	July 1, 2001
700–799	(869–044–00118–7)	42.00	July 1, 2001
800–End	(869–044–00119–5)	44.00	July 1, 2001
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
125–199	(869–044–00121–7)	55.00	July 1, 2001
200–End	(869–044–00122–5)	45.00	July 1, 2001
34 Parts:			
1–299	(869–044–00123–3)	43.00	July 1, 2001
300–399	(869–044–00124–1)	40.00	July 1, 2001
400–End	(869–044–00125–0)	56.00	July 1, 2001
35	(869–044–00126–8)	10.00	[6]July 1, 2001
36 Parts			
1–199	(869–044–00127–6)	34.00	July 1, 2001
200–299	(869–044–00128–4)	33.00	July 1, 2001
300–End	(869–044–00129–2)	55.00	July 1, 2001
37	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
0–17	(869–044–00131–4)	53.00	July 1, 2001
18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–044–00133–1)	37.00	July 1, 2001
40 Parts:			
1–49	(869–044–00134–9)	54.00	July 1, 2001
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–044–00136–5)	50.00	July 1, 2001
52 (52.1019–End)	(869–044–00137–3)	55.00	July 1, 2001
53–59	(869–044–00138–1)	28.00	July 1, 2001
60 (60.1–End)	(869–044–00139–0)	53.00	July 1, 2001
60 (Apps)	(869–044–00140–3)	51.00	July 1, 2001
61–62	(869–044–00141–1)	35.00	July 1, 2001
63 (63.1–63.599)	(869–044–00142–0)	53.00	July 1, 2001
63 (63.600–63.1199)	(869–044–00143–8)	44.00	July 1, 2001
63 (63.1200-End)	(869–044–00144–6)	56.00	July 1, 2001
64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–044–00146–2)	55.00	July 1, 2001
81–85	(869–044–00147–1)	45.00	July 1, 2001
86 (86.1–86.599–99)	(869–044–00148–9)	52.00	July 1, 2001
86 (86.600–1–End)	(869–044–00149–7)	45.00	July 1, 2001
87–99	(869–044–00150–1)	54.00	July 1, 2001
100–135	(869–044–00151–9)	38.00	July 1, 2001
136–149	(869–044–00152–7)	55.00	July 1, 2001
150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–044–00156–0)	45.00	July 1, 2001
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–044–00160–8)	55.00	July 1, 2001
790–End	(869–044–00161–6)	44.00	July 1, 2001
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–044–00163–2)	45.00	July 1, 2001
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–044–00166–7)	51.00	Oct. 1, 2001
400–429	(869–044–00167–5)	59.00	Oct. 1, 2001
430–End	(869–044–00168–3)	58.00	Oct. 1, 2001
43 Parts:			
1–999	(869–044–00169–1)	45.00	Oct. 1, 2001
1000–end	(869–044–00170–5)	56.00	Oct. 1, 2001
44	(869–044–00171–3)	45.00	Oct. 1, 2001
45 Parts:			
1–199	(869–044–00172–1)	53.00	Oct. 1, 2001
200–499	(869–044–00173–0)	31.00	Oct. 1, 2001
500–1199	(869–044–00174–8)	45.00	Oct. 1, 2001
1200–End	(869–044–00175–6)	55.00	Oct. 1, 2001
46 Parts:			
1–40	(869–044–00176–4)	43.00	Oct. 1, 2001
41–69	(869–044–00177–2)	35.00	Oct. 1, 2001
70–89	(869–044–00178–1)	13.00	Oct. 1, 2001
90–139	(869–044–00179–9)	41.00	Oct. 1, 2001
140–155	(869–044–00180–2)	24.00	Oct. 1, 2001
156–165	(869–044–00181–1)	31.00	Oct. 1, 2001
166–199	(869–044–00182–9)	42.00	Oct. 1, 2001
200–499	(869–044–00183–7)	36.00	Oct. 1, 2001
500–End	(869–044–00184–5)	23.00	Oct. 1, 2001
47 Parts:			
0–19	(869–044–00185–3)	55.00	Oct. 1, 2001
20–39	(869–044–00186–1)	43.00	Oct. 1, 2001
40–69	(869–044–00187–0)	36.00	Oct. 1, 2001
70–79	(869–044–00188–8)	58.00	Oct. 1, 2001
80–End	(869–044–00189–6)	55.00	Oct. 1, 2001
48 Chapters:			
1 (Parts 1–51)	(869–044–00190–0)	60.00	Oct. 1, 2001
1 (Parts 52–99)	(869–044–00191–8)	45.00	Oct. 1, 2001
2 (Parts 201–299)	(869–044–00192–6)	53.00	Oct. 1, 2001
3–6	(869–044–00193–4)	31.00	Oct. 1, 2001
7–14	(869–044–00194–2)	51.00	Oct. 1, 2001
15–28	(869–044–00195–1)	53.00	Oct. 1, 2001
29–End	(869–044–00196–9)	38.00	Oct. 1, 2001
49 Parts:			
1–99	(869–044–00197–7)	55.00	Oct. 1, 2001
100–185	(869–044–00198–5)	60.00	Oct. 1, 2001
186–199	(869–044–00199–3)	18.00	Oct. 1, 2001
200–399	(869–044–00200–1)	60.00	Oct. 1, 2001
400–999	(869–044–00201–9)	58.00	Oct. 1, 2001
1000–1199	(869–044–00202–7)	26.00	Oct. 1, 2001

Title	Stock Number	Price	Revision Date
1200–End	(869–044–00203–5)	21.00	Oct. 1, 2001
50 Parts:			
1–199	(869–044–00204–3)	63.00	Oct. 1, 2001
200–599	(869–044–00205–1)	36.00	Oct. 1, 2001
600–End	(869–044–00206–0)	55.00	Oct. 1, 2001
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained..