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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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

RIN 3206–AJ56

Premium Pay Limitations

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations to implement recent statutory amendments dealing with the premium pay limitations for Federal employees. Those amendments raise the premium pay caps for most employees, provide authority to use an annual cap instead of a biweekly cap in additional circumstances, and make certain other changes.

DATES: *Effective Date:* The interim regulations are effective on April 27, 2002.

Applicability Date: The interim regulations apply on the first day of the first pay period beginning on or after April 27, 2002.

Comments Date: Comments must be received on or before June 18, 2002.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, FAX: (202) 606–4264, or e-mail them to *payleave@opm.gov*.

FOR FURTHER INFORMATION CONTACT: Bryce Baker by telephone at (202) 606–2858; by fax at (202) 606–4264; or by e-mail to *payleave@opm.gov*.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is issuing interim regulations to implement the new premium pay limitations established by section 1114 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107, December 28, 2001). Section 1114 amended 5 U.S.C. 5547, which establishes biweekly or annual limitations on the premium pay that a covered Federal employee may receive.

The law provides that the section 1114 amendments will become effective on the first day of the first pay period beginning on or after the 120th day following enactment. The 120th day falls on Saturday, April 27, 2002. Since biweekly pay periods for Federal employees begin on a Sunday, these provisions begin to apply on either April 28 or May 5, 2002, depending on the employing agency's payroll cycle.

Description of Prior Law

Prior to the amendments made by section 1114, the following premium pay limitations applied under 5 U.S.C. 5547:

- Federal employees were generally subject to a biweekly cap on premium pay. For all employees other than law enforcement officers, premium pay was capped to the extent that it caused the sum of the employee's basic pay and premium pay in a biweekly pay period to exceed the applicable biweekly rate of basic pay for GS–15, step 10.
- For employees who perform work in connection with an emergency involving a direct threat to life or property (except law enforcement officers), premium pay in an affected pay period was not subject to a biweekly cap. However, the employee could not receive premium pay to the extent it caused him or her to receive an aggregate total of basic pay and premium pay in the calendar year in excess of the applicable annual rate of basic pay for GS–15, step 10.
- Law enforcement officers were subject to a biweekly cap equal to the lesser of (1) 150 percent of the applicable rate of basic pay for GS–15, step 1, or (2) the rate for level V of the Executive Schedule. In recent years, the level V rate was the lesser rate in all locations and thus served as the cap. By law, the annual cap for emergency situations was not applicable to law enforcement officers. (See 5 U.S.C. 5547(c).) (As of January 2002, the level V cap fell below the GS–15, step 10, cap in nine locality pay areas with the largest locality pay percentages.)

Summary of Statutory Changes

Section 1114 makes the following changes in the premium pay limitations established by 5 U.S.C. 5547:

- Section 1114 removes the separate premium pay limitation for law enforcement officers. Law enforcement officers will be covered by the same premium pay limitations that apply to other Federal employees.
- Section 1114 ties the premium pay limitations to the higher of two rates: (1) The rate of basic pay for GS–15, step 10 (including any applicable locality payment, special rate, or similar adjustment), or (2) the rate payable for level V of the Executive Schedule. For most employees, this results in a higher premium pay cap.
- Section 1114 makes clear that an agency may apply an annual limitation for employees performing work in the aftermath of an emergency involving a direct threat to life or property. For example, work performed by Federal emergency workers in the immediate aftermath of a hurricane or a forest fire would qualify.
- Section 1114 adds a discretionary authority under which an agency head may approve the use of an annual cap whenever he or she determines that the work in question is critical to the mission of the agency and that an annual cap is needed.
- Section 1114 provides that OPM must prescribe regulations to govern how the annual limitation applies to employees receiving certain forms of regularly recurring premium payments. These payments are availability pay for criminal investigators under 5 U.S.C. 5545a, administratively uncontrollable overtime (AUO) pay under 5 U.S.C. 5545(c)(2), standby premium pay under 5 U.S.C. 5545(c)(1), and regular overtime pay for firefighters covered by 5 U.S.C. 5545b. Generally, these forms of premium pay are paid as regular salary supplements and are creditable as basic pay for retirement purposes.

Description of New Regulatory Provisions

Under 5 U.S.C. 5548, OPM has general authority to issue regulations necessary to administer the premium pay provisions in subchapter V of chapter 55 of title 5, United States Code. The newly amended sections 5547(b)(3) and (c) also provide specific authority to regulate certain matters related to the

premium pay limitation provisions. These regulations revise sections 550.105 through 550.107 in subpart A of part 550, United States Code.

Section 550.105—We are revising this section (dealing with the biweekly limitation) to incorporate the new premium pay cap amounts and to provide that these caps now apply to law enforcement officers. In addition, we are adding a paragraph to make clear that, in applying the biweekly cap, agencies must pay certain types of premium pay before paying other types of premium pay.

Section 550.106—We are revising this section (dealing with the annual limitation) to be consistent with the section 1114 amendments by (1) incorporating the new premium pay cap amounts; (2) adding language to make clear that work performed in the aftermath of an emergency qualifies as emergency work; (3) adding a provision regarding the use of an annual cap when an agency determines that employees are performing mission-critical work; and (4) noting that certain types of premium pay remain subject to a biweekly cap, as provided in § 550.107.

The new authority to apply an annual cap when employees are performing work the agency determines to be mission-critical may be used at the sole discretion of the agency head (or designee). As with the annual cap for emergency work, this annual cap would allow premium payments in excess of the normal biweekly cap only in pay periods during which covered work is performed. If an employee ceases to perform approved mission-critical work, the agency must apply the normal biweekly cap in future pay periods. In that circumstance, the annual cap would continue to operate only to ensure that total premium pay for the calendar year does not cause the annual cap to be exceeded.

In addition, we are adding several new paragraphs to § 550.106 to address various issues under our broad regulatory authority:

- Paragraph (d) provides that the end-of-year rates of basic pay used to determine the annual cap must be computed using hourly rates of pay and taking into account the number of paychecks in the calendar year. Thus, in calendar years in which there are 27 paychecks, the annual cap would be increased to reflect payment for an additional pay period.
- Paragraph (e) provides agencies with authority to delay payment of the additional premium pay payable to an employee because of an annual cap until the end of the calendar year. This would prevent overpayments that would otherwise result because of erroneous projections of basic pay. (For example, an unanticipated quality step increase or promotion could cause an employee's annual total of basic pay to be greater than expected.)
- Paragraph (f) clarifies that a retroactive payment that corrects an underpayment of premium pay in a previous calendar year must be treated as being made in the previous calendar year for the purpose of applying the annual cap.

Section 550.107—We are replacing the former section 550.107 (which dealt with the special premium pay cap for law enforcement officers) with a new section to address the treatment of certain types of regular and recurring premium pay: (1) Standby pay under 5 U.S.C. 5545(c)(1); (2) AUO pay under 5 U.S.C. 5545(c)(2); (3) availability pay under 5 U.S.C. 5545a; and (4) regular overtime pay for firefighters covered by 5 U.S.C. 5545b. Generally, these types of premium pay are creditable as basic pay for retirement purposes. (AUO pay is retirement creditable for law enforcement officers only. Also, only the straight-time portion of a firefighter's regular overtime pay is retirement creditable.)

As authorized by 5 U.S.C. 5547(c) (as amended by section 1114), the interim regulations provide that these types of regular and recurring premium pay remain subject to a biweekly cap, even while other types of premium pay are simultaneously subject to an annual cap. In other words, in any pay period during which an annual cap has been invoked, these types of premium pay are paid first, subject to the biweekly cap. Then, the agency may pay any additional types of premium pay under the annual cap provisions. This ensures that the above-cited types of premium payments remain as stable salary supplements that employees can count on from pay period to pay period, as intended by the law. An annual cap would cause an employee's regular pay to vary dramatically over the course of a year.

In addition, a biweekly cap is appropriate for the above-cited types of premium payments because they are generally creditable as basic pay for retirement purposes. Various anomalies would result if retirement-creditable forms of premium pay were subjected to an annual cap. Employees could experience a reduction in their Thrift Savings Plan deposits as non-retirement creditable premium payments are paid in lieu of retirement-creditable premium payments. Also, irregular retirement-creditable premium payments could affect employees' high-three average salaries positively or negatively, thus resulting in unwarranted increases or decreases in employees' annuity payments. By continuing to apply a biweekly cap to retirement-creditable premium pay, we ensure that employees are treated fairly and consistently.

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

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists to waive the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists for making this rule effective in less than 30 days. These regulations implement section 1114 of Public Law 107–107, which takes effect on the first day of the first pay period beginning on or after April 27, 2002. Certain provisions cannot be applied, however, unless OPM issues implementing regulations. The waiver of the requirements for proposed rulemaking and a delay in effective date are necessary to ensure timely implementation of the law as intended by Congress.

Regulatory Flexibility Act

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

E.O. 12866, Regulatory Review

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

List of Subjects in 5 CFR Part 550

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

Office of Personnel Management.

Kay Coles James,

Director.

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

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart A—Premium Pay

1. Revise the authority citation for subpart A of part 550 to read as follows:

Authority: 5 U.S.C. 5304 note, 5305 note, 5541(2)(iv), 5545a(h)(2)(B) and (i), 5547(b) and (c), 5548, and 6101(c); sections 407 and 2316, Pub. L. 105–277, 112 Stat. 2681–101 and 2681–828 (5 U.S.C. 5545a); E.O. 12748, 3 CFR, 1992 Comp., p. 316.

2. Revise § 550.105 to read as follows:

§ 550.105 Biweekly maximum earnings limitation.

(a) Except as provided in paragraph (c) of this section, an employee may receive premium pay under this subpart only to the extent that the payment does not cause the total of his or her basic pay and premium pay for any biweekly pay period to exceed the greater of—

(1) The maximum biweekly rate of basic pay payable for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law); or

(2) The biweekly rate payable for level V of the Executive Schedule.

(b) In applying the biweekly limitation under this section, premium pay of the types listed in § 550.107(a) must be paid before paying any other type of premium pay.

(c) This section does not apply to—

(1) Any pay period during which an employee is subject to an annual limitation as provided in § 550.106;

(2) An employee of the Federal Aviation Administration or the Department of Defense who receives premium pay under 5 U.S.C. 5546a.

3. Revise § 550.106 to read as follows:

§ 550.106 Annual maximum earnings limitation.

(a)(1) For any pay period in which the head of an agency (or designee), or the Office of Personnel Management on its own motion, determines that an emergency exists, the agency must pay an affected employee premium pay under the limitations described in paragraph (c) of this section and § 550.107 instead of under the biweekly limitation described in § 550.105(a). An employee is affected if he or she has been determined by the head of the agency (or designee) to be performing work in connection with the emergency or its aftermath. (See definition of ''emergency'' in § 550.103.)

(2) The head of an agency (or designee) must make the determination under paragraph (a)(1) of this section as soon as practicable after the work in connection with the emergency or its aftermath begins. Entitlement to premium pay under this annual limitation becomes effective on the first day of the pay period in which such work began.

(b)(1) For any pay period in which the head of an agency (or designee), in his or her sole discretion, determines that an employee is needed to perform work that is critical to the mission of the agency, the agency may pay premium pay under the limitations described in paragraph (c) of this section and § 550.107 instead of under the biweekly limitation described in § 550.105(a).

(2) Entitlement to premium pay under this annual limitation becomes effective on the first day of the pay period designated by the head of the agency (or designee).

(c) In any calendar year during which an employee has been determined to be performing emergency or mission-critical work as provided in paragraphs (a) or (b) of this section, the employee may receive premium pay under this subpart (excluding the types of premium pay identified in § 550.107) only to the extent that the payment does not cause the total of his or her basic pay and premium pay for the calendar year to exceed the greater of—

(1) The maximum annual rate of basic pay payable for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) in effect on the last day of the calendar year; or

(2) The annual rate payable for level V of the Executive Schedule in effect on the last day of the calendar year.

(d) The annual rates under paragraphs (c)(1) and (2) of this section must be computed as follows:

(1) Compute an hourly rate by dividing the published annual rate of basic pay by 2,087 hours and rounding the result to the nearest cent;

(2) Compute a biweekly rate by multiplying the hourly rate from paragraph (d)(1) of this section by 80 hours;

(3) Compute an annual rate by multiplying the biweekly rate from paragraph (d)(2) of this section by the number of pay periods for which a paycheck is issued in the given calendar year under the agency's payroll cycle (i.e., either 26 or 27).

(e) An agency may defer payment of the additional premium pay owed an employee as a result of the annual limitation until the end of the calendar year.

(f) Any payment made in the current calendar year that corrects an underpayment of premium pay in a previous calendar year must be treated as being made in the previous calendar year for the purpose of applying the annual cap under this section.

4. Revise § 550.107 to read as follows:

§ 550.107 Premium payments capped on a biweekly basis when an annual limitation otherwise applies.

(a) The following types of premium pay remain subject to a biweekly limitation when other premium payments are subject to an annual limitation under § 550.106:

(1) Standby duty pay under 5 U.S.C. 5545(c)(1);

(2) Administratively uncontrollable overtime pay under 5 U.S.C. 5545(c)(2);

(3) Availability pay for criminal investigators under 5 U.S.C. 5545a; and

(4) Overtime pay for hours in the regular tour of duty of a firefighter covered by 5 U.S.C. 5545b.

(b) An employee must receive premium pay of the types identified in paragraph (a) of this section before receiving any other type of premium pay.

(c) In any pay period during which an employee is subject to an annual limitation under § 550.106, the employee may receive the types of premium pay identified in paragraph (a) of this section only to the extent that the payment does not cause the total of his or her basic pay and such premium pay for the pay period to exceed the greater of—

(1) The maximum biweekly rate of basic pay payable for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law); or

(2) The biweekly rate payable for level V of the Executive Schedule.

(d) Premium pay paid, or projected to be paid, under this section is included in determining whether the sum of the employee's basic pay and premium pay would exceed the annual limitation under § 550.106.

[FR Doc. 02–9537 Filed 4–11–02; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1750

Risk-Based Capital

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to Part 1750 of the Code of Federal Regulations for the regulation on the process used to determine the capital classification of the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae).

EFFECTIVE DATE: April 19, 2002.

FOR FURTHER INFORMATION CONTACT: Marvin L. Shaw, Senior Counsel, telephone (202) 414–3751 (not a toll-free number), Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

OFHEO published a final regulation setting forth a risk-based capital stress test on September 13, 2001, which formed the basis for determining the risk-based capital requirement for the Federally sponsored housing enterprises—Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises).[1] Subsequently, OFHEO published a final regulation that referenced the risk-based capital regulation with respect to the capital classification process.[2] There are two errors in the Code of Federal Regulations that need to be corrected: one section needs to be removed and a second section needs to be revised to reflect the appropriate cross reference.

Need for Correction

As published, the final regulations contained an error which may be confusing and therefore needs to be corrected.

List of Subjects in 12 CFR Part 1750

Capital classification, Mortgages, Risk-based capital.

Accordingly, 12 CFR part 1750 is corrected by making the following correcting amendments:

PART 1750—CAPITAL

1. The authority citation for part 1750 continues to read as follows:

Authority: 12 U.S.C. 4513, 4514, 4611, 4612, 4614, 4618.

§ 1750.5 [Removed].

2. Remove § 1750.5 of subpart A.

3. Revise paragraph (c) of § 1750.12 to read as follows:

§ 1750.12 Procedure and timing.

* * * * *

(c) When an Enterprise contemplates entering a new activity, as the term is defined in section 3.11 of Appendix A to this subpart, the Enterprise shall notify the Director as soon as possible while the transaction or activity is under consideration, but in no event later than 5 calendar days after settlement or closing. The Enterprises shall provide to the Director such information regarding the activity as the Director may require to determine a stress test treatment. OFHEO will inform the Enterprise as soon as possible thereafter of the proposed stress test treatment of the new activity. In addition, the notice of proposed capital classification required by § 1777.21 of this chapter will inform the Enterprise of the capital treatment of such new activity used in the determination of the risk-based capital requirement.

* * * * *

Dated: April 15, 2002.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 02–9608 Filed 4–18–02; 8:45 am]

BILLING CODE 4220–01–U

[1] Risk-based Capital, 66 FR 47730 (September 13, 2001).

[2] Prompt Supervisory Response and Corrective Action, 67 FR 3587 (January 25, 2002).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–189–AD; Amendment 39–12715; AD 2002–08–07]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, -300, and -300F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767–200, -300, and -300F series airplanes. This AD requires examination of maintenance records to determine if Titanine JC5A (also known as Desoto 823E508) corrosion inhibiting compound (''C.I.C.'') was ever used; inspection for cracks or corrosion and corrective action, if applicable; repetitive inspections and C.I.C. applications; and modification of the aft trunnion area of the outer cylinder, which terminates the need for the repetitive inspections and C.I.C. applications. This action is necessary to prevent severe corrosion in the main landing gear (MLG) outer cylinder at the aft trunnion, which could develop into stress corrosion cracking and consequent collapse of the MLG. This action is intended to address the identified unsafe condition. The FAA is also planning to issue additional rulemaking to exclude the use of Titanine JC5A for compliance with previously issued ADs.

DATES: Effective May 6, 2002. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 6, 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: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; 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 767–200, -300, and -300F series airplanes was published in the **Federal Register** on August 23, 2001 (66 FR 44313). That action proposed to require examination of maintenance records to determine if Titanine JC5A corrosion inhibiting compound (''C.I.C.'') was ever used; inspection for cracks or corrosion and corrective action, if applicable; repetitive inspections and C.I.C. applications; and modification of the aft trunnion area of the outer cylinder, which terminates the need for the repetitive inspections and C.I.C. applications.

Comments

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

Two commenters support the proposed AD.

Acknowledge Alternate Name for Titanine JC5A

One commenter, the airplane manufacturer, points out that the proposed AD only refers to ''Titanine JC5A,'' but this C.I.C. is also known by a Desoto product name, ''Desoto 823E508.'' The commenter asks that the

proposed AD be revised to refer to this name as well.

The FAA concurs with the commenter's request. Any Titanine JC5A product, regardless of the trade name of the product, is subject to the same actions of this AD. We have revised paragraph (a) as well as the Summary section of this AD accordingly. Hereafter, this final rule refers to these products collectively as ''JC5A.''

Request to Eliminate Redundant Requirements

One commenter requests that the FAA remove the requirement to perform the C.I.C. application before further flight, as stated in paragraphs (e)(1)(i), (e)(2)(i), (h)(1)(i), and (h)(2)(i)(A) of the proposed AD. The commenter notes that it is redundant to mandate application of C.I.C. in accordance with ''Part 3 '' C.I.C. Application'' of the service bulletin before further flight in these paragraphs because application of C.I.C. is already included as part of the Parts 1 and 2 inspection procedures.

The FAA partially concurs with the commenter's request. We do not intend for application of C.I.C. to be performed twice during the same maintenance visit. Accordingly, we have revised paragraphs (e)(1)(i), (e)(2)(i), and (h)(2)(i)(A) of this final rule to be consistent with the instructions in the service bulletin. With regard to the commenter's request to revise ''paragraph (h)(1)(i),'' we note that there is no such paragraph, and paragraph (h)(1) is already consistent with the service bulletin. Therefore, no further change has been made in this regard.

Limit Area of Prohibition

One commenter recommends that the proposed AD prohibit the application of JC5A only in the aft trunnion area of the main landing gear (MLG). The commenter notes that the wording of paragraph (l) of the proposed AD prohibits application of JC5A anywhere on the airplane. The commenter states that service history and laboratory test data have shown that typical usage of JC5A in thin layers (such as on fasteners and faying surfaces) does not promote corrosion.

While we neither accept nor reject the commenter's argument, we agree that the unsafe condition associated with this AD relates specifically to the aft trunnion of the MLG. Therefore, it is appropriate to limit the prohibition of the application of JC5A to the aft trunnion area of the MLG outer cylinder. We have revised paragraph (l) of this final rule accordingly.

Clarify Requirements of Paragraph (b)

One commenter requests that the FAA clarify the requirements of paragraph (b) of the proposed AD. That paragraph reads, ''Except as required by paragraph (l) of this AD, if, according to the criteria of paragraph (a) of this AD, JC5A was never used, no further action is required by this AD.'' The commenter does not understand what is meant by ''paragraph (l) of this AD.''

The FAA concurs that clarification may be necessary. Paragraph (b) of this AD refers to the paragraph (l), which appears under the heading ''Spares'' in the proposed AD. For clarification, a new heading, ''Use of JC5A Prohibited'' has been added before paragraph (l) of this final rule, and paragraph (b) has been revised to read, ''Except as provided by paragraph (l) (''Use of JC5A Prohibited'') of this AD,* * *''

Request To Supersede Multiple ADs

One commenter requests that the FAA revise the proposed AD to supersede AD 96–21–06, amendment 39–9783 (61 FR 55080, October 24, 1996), AD 95–19–10, amendment 39–9372 (60 FR 47689, September 14, 1995), and AD 95–20–51, amendment 39–9398 (60 FR 53109, October 12, 1995), with one AD. The commenter sees no benefit in having four ADs (i.e., the three listed previously and the proposed AD) that address the same area of the aft trunnion of the MLG on Model 767 series airplanes. The commenter states that superseding all of the ADs related to the aft trunnion would ease the administrative burden and simplify the recordkeeping associated with these ADs.

The FAA does not concur with the commenter's request. We note that the applicability statements of all three existing ADs differ; that is, all three ADs apply to different groups of airplanes. With this in mind, combining this AD and the three existing ADs referenced by the commenter into one superseding AD would result in a lengthy, highly complex AD, which may be confusing for operators. For this reason, we find that a combined AD would be likely to impose more of an administrative and recordkeeping burden, rather than less of one, as the commenter suggests, and could increase the potential for recordkeeping mistakes. For these reasons, we find it inappropriate to issue one supersedure to combine the three existing ADs with this AD. No change to the final rule is needed in this regard.

Extend Compliance Time for Terminating Action

One commenter requests that the FAA extend the compliance time for the proposed terminating action for certain airplanes. The commenter states that, for airplanes with Category 1 MLG, if an operator has exclusively used Mastinox 6856K C.I.C. on the aft trunnion area of the MLG since delivery of the airplane, and the initial detailed visual inspection according to the proposed AD does not reveal cracking or corrosion, the compliance time for the terminating action should be extended to the next MLG overhaul or 8 years since delivery of the airplane, whichever comes first. The commenter's request is based on the results of its initial detailed visual inspections, which showed the aft trunnion area of the MLG on its airplanes to be in ''excellent condition.'' The commenter believes that this condition is related to the application of Mastinox 6856K every 180 days since delivery of its airplanes, which has resulted in the Mastinox 6856K ''pressing out'' the JC5A from the aft trunnion area of the MLG. The commenter states that, since the JC5A was ''pressed out'' during the first in-service application of Mastinox 6856K, there would be no time for the JC5A to have deteriorated and caused damage.

The FAA does not concur. The flow of lubricant through the aft trunnion of the MLG has not been studied enough to allow the conclusion that application of a different lubricant would sufficiently remove or dilute the JC5A. Lubrication may not sufficiently flush out certain areas of the aft trunnion, and those areas may still be subject to corrosion. No change to the final rule is needed in this regard.

Restrict Applicability of Certain Requirements

One commenter requests that the proposed AD be revised to exempt airplanes with line numbers 834 and subsequent from having to accomplish the actions specified in the proposed AD. The commenter notes that the airplane manufacturer discontinued the use of JC5A in the aft trunnion of the MLG at line number 834.

The FAA does not concur. If the records review in paragraph (a) of this AD shows that JC5A has never been used on the aft trunnion of the MLG, either in production or after delivery, no further action is required, as specified in paragraph (b) of this AD. Airplanes with line numbers 834 and subsequent are still subject to the prohibition of the use of JC5A mandated by paragraph (l) of

this AD. No change to the final rule is needed in this regard.

Acknowledge Alternative Method of Compliance

One commenter requests that the FAA revise paragraph (i) of the proposed AD to refer to Boeing Service Bulletin 767–32A0148, Revision 2, dated November 30, 2000, as an acceptable method of compliance with the proposed terminating action. The commenter states that the procedures in that service bulletin are equivalent to those in ''Part 4—Terminating Action'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001 (which the proposed AD refers to as the appropriate source of service information for accomplishment of the requirements of paragraph (i)).

The FAA concurs with the intent of the commenter's request but does not concur that any change to the AD is necessary. We concur that accomplishment of Boeing Service Bulletin 767–32A0148, Revision 2, is acceptable for compliance with paragraph (i) of this AD for airplanes with line numbers 1 through 605. We have previously reviewed and approved that service bulletin, which describes procedures for repairing corrosion and replacing bushings in the aft trunnion of the MLG. However, we do not concur that any change to this final rule is necessary because, if Boeing Service Bulletin 767–32A0148, Revision 2, has been accomplished prior to the records examination required by paragraph (a) of this AD, and the records examination shows that JC5A was not used on the MLG subsequent to accomplishment of Boeing Service Bulletin 767–32A0148, Revision 2, no further action would be required by this AD, as specified in paragraph (b) of this AD.

Remove Paragraph (j)

One commenter requests that the FAA remove paragraph (j) of the proposed AD. That paragraph states that ''Accomplishment of the actions specified in paragraph (i) of this AD is considered acceptable for compliance with the requirements of paragraph (e) of AD 96–21–06, amendment 39–9783.'' The commenter points out that the FAA has previously issued another notice of proposed rulemaking (NPRM), Docket Number 2001–NM–198–AD, which proposes to supersede AD 96–21–06. Therefore, when AD 96–21–06 is superseded by another AD, paragraph (j) of the proposed AD will refer to an AD that does not exist. The commenter requests that the provisions of paragraph (j) be added to the AD that supersedes AD 96–21–06.

The FAA partially concurs with the commenter's request. We do not agree to remove paragraph (j) of this AD. Instead, to minimize confusion, we have retained paragraph (j) in this final rule but have revised it to refer to AD 2002–01–13, amendment 39–12607 (67 FR 3605, January 25, 2002), which is the AD that supersedes AD 96–21–06. In addition, we agree that it is appropriate to add the provisions of paragraph (j) of this AD to AD 2002–01–13. Therefore, a new paragraph (h) has been added to that AD to specify that accomplishment of ''Part 4—Terminating Action'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192 constitutes terminating action for paragraph (e) of that AD.

Allow Reinstallation of MLG

One commenter requests that the FAA revise the Spares provision, paragraph (k), of the proposed AD. The commenter notes that, as proposed, if the MLG is removed from an airplane, that paragraph would require operators to accomplish paragraph (i), the terminating action, of the proposed AD, before the MLG could be re-installed on the airplane. The commenter states that this requirement is overly restrictive and could force operators to accomplish the terminating action earlier than otherwise would be required by the proposed AD.

Based on the commenter's request, the FAA finds that some clarification of paragraph (k) of the proposed AD may be necessary. The intent of paragraph (k) of this AD is to ensure that, if the MLG is removed from the airplane in the course of maintenance, the MLG outer cylinder will be replaced with an MLG outer cylinder on which JC5A has never been used or on which the terminating action required by this AD has been accomplished. We have revised paragraph (k) of this AD to clarify our intention.

Explanation of Additional Changes to Final Rule

In addition to the changes described previously, several typographical errors have been corrected in this final rule.

Conclusion

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

Cost Impact

There are approximately 806 Model 767–200, –300, and –300F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 489 airplanes of U.S. registry will be affected by this AD. The approximate work hours required to accomplish the required actions are indicated in the table below. It is estimated that the average labor rate is $60 per work hour. Cost of required parts per airplane and the estimated cost impact of this AD on U.S. operators is indicated in the table below.

ESTIMATED COSTS

Category	Labor costs (at $60 per hour)	Parts costs	Total cost per Airplane	Total fleet cost (489 airplanes)
1	Inspection—Bushings Removed 25 hours/1,500	[Reserved]	1,500	733,500
1	Inspection—Bushings Not Removed—20 hours/$1,200	[Reserved]	1,200	586,800
1	C.I.C. Application—5 hours/300	[Reserved]	300	146,700
1	Terminating Action—218 hours/$13,080	$6,356	19,436	9,504,204
2	Inspection—Bushings Not Removed—20 hours/$1,200	[Reserved]	1,200	586,800
2	C.I.C. Application 5 hours/$300	[Reserved]	300	146,700

Category 1: Airplanes with an undercut in the aft trunnion above.
Category 2: Airplanes without an undercut in the aft trunnion bore.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–08–07 Boeing: Amendment 39–12715. Docket 2001–NM–189–AD.

Applicability: All Model 767–200, –300, and –300F 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 (m) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent severe corrosion in the main landing gear (MLG) outer cylinder at the aft trunnion, which could develop into stress corrosion cracking and consequent collapse of the MLG, accomplish the following:

Records Examination

(a) Within 90 days after the effective date of this AD, examine airplane records to determine if Titanine JC5A or Desoto 823E508 (hereafter collectively referred to as ''JC5A'') corrosion inhibiting compound (''C. I. C.'') was used in the aft trunnion area of the MLG outer cylinder during general maintenance, overhaul, or incorporation of Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996 (required by paragraph (e) of AD 96–21–06, amendment 39–9783); in accordance with Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001. If records do not show conclusively which compound was used, assume JC5A was used. Refer to Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001, for the line numbers of airplanes that were assembled new using JC5A.

Note 2: Prior to January 31, 2001, if BMS 3–27 was ordered from Boeing, Boeing shipped JC5A as a substitute.

MLGs on Which JC5A Was Not Used

(b) Except as provided by paragraph (l) (''Use of JC5A Prohibited'') of this AD, if, according to the criteria of paragraph (a) of this AD, JC5A was never used, no further action is required by this AD.

C.I.C. Applications, Inspections, and Corrective Actions if Necessary

(c) For Category 1 MLG outer cylinders as identified in Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001: If, according to the criteria of paragraph (a) of this AD, JC5A may have been used, perform the actions specified in both paragraphs (d) and (e) of this AD, as applicable, in accordance with Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001.

(d) For MLGs and MLG outer cylinders identified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD: Within 90 days after the effective date of this AD, perform the C.I.C. application on the MLG in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001. Thereafter, repeat at intervals not to exceed 180 days until the terminating action required by paragraph (i) of this AD has been accomplished.

(1) MLG outer cylinders that are less than 3 years old since new.

(2) MLGs that have been overhauled less than 3 years ago.

(3) MLGs on which rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996, was accomplished less than 3 years ago.

(e) Before the MLG outer cylinder is 3 years old since new, since last overhaul, or since rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996; or within 90 days after the effective date of this AD; whichever is later; perform a detailed visual inspection for cracks and corrosion of the cross bolt bushing holes and chamfers in accordance with ''Part 1—Cross Bolt Hole Inspection—Bushings Removed'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001.

Note 3: 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.''

(1) If no crack or corrosion is found during the detailed visual inspection required by paragraph (e) of this AD, perform the actions in paragraphs (e)(1)(i), (e)(1)(ii), and (e)(1)(iii) of this AD, at the applicable times indicated.

(i) Before further flight, perform the restoration steps shown in Figure 2 of the service bulletin, and thereafter at intervals not to exceed 180 days, perform the C.I.C. application on the landing gear in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of the service bulletin.

(ii) Within 18 months after performing the detailed visual inspection required by paragraph (e) of this AD, and thereafter at intervals not to exceed 18 months, perform the detailed visual inspection for cracks and corrosion of the cross bolt hole inner chamfer, in accordance with ''Part 2—Cross Bolt Hole Inner Chamfer Inspection—Bushings Not Removed'' of the Accomplishment Instructions of the service bulletin, until the terminating action required by paragraph (i) of this AD has been accomplished.

(iii) Before the MLG cylinder is 6½ years since new, since last overhaul, or since rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996; whichever is later; perform the terminating action described in paragraph (i) of this AD.

(2) If any corrosion is found on the cross bolt holes or outer chamfers during the detailed visual inspection required by paragraph (e) of this AD, before further flight, remove the corrosion per Figure 2 of the service bulletin.

(i) If all of the corrosion can be removed, before further flight, perform the restoration steps shown in Figure 2 of the service bulletin, and thereafter at intervals not to exceed 180 days, perform the C.I.C. application on the MLG in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of the service bulletin, and perform the terminating action described in paragraph (i) of this AD, at the applicable time specified in paragraphs (e)(2)(i)(A) or (e)(2)(i)(B) of this AD.

(A) If the MLG outer cylinder is less than 5 years old since new, if the MLG was last overhauled less than 5 years ago, or if rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996, was accomplished less than 5 years ago: Within 18 months after performing the detailed visual inspection required by paragraph (e) of this AD.

(B) If the MLG outer cylinder is 5 years old or more since new; if the MLG was last overhauled 5 years ago or more; or if rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996, was accomplished 5 years ago or more: Before the MLG outer cylinder is 6½ years old since new, since last overhaul, or since rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996; whichever is later.

(ii) If any corrosion cannot be removed, before further flight, perform the terminating action described in paragraph (i) of this AD.

(3) If any crack is found anywhere during the detailed visual inspection required in paragraph (e) of this AD, or if corrosion in the inner cross bolt hole chamfers is found, before further flight, perform the terminating action described in paragraph (i) of this AD.

(f) For Category 2 MLG outer cylinders as identified in Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001: If, according to the criteria of paragraph (a) of this AD, JC5A may have been used, perform the actions specified in both paragraphs (g) and (h) of this AD, as applicable, in accordance with Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001.

(g) For MLGs and MLG outer cylinders identified in paragraphs (g)(1) and (g)(2) of this AD: Within 90 days after the effective date of this AD, perform the C.I.C. application on the MLG in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001. Thereafter, repeat the application at intervals not to exceed 180 days until the terminating action required by paragraph (i) of this AD has been accomplished.

(1) MLG outer cylinders that are less than 3 years old since new.

(2) MLGs that have been overhauled less than 3 years ago.

(h) Before the MLG outer cylinder is 3 years old since new or since the last overhaul, or within 90 days of the effective date of this AD, whichever is later, perform a detailed visual inspection for cracks and corrosion of the cross bolt hole inner chamfer, in accordance with ''Part 2—Crossbolt Hole Inner Chamfer Inspection—Bushings Not Removed'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001.

(1) If no crack or corrosion is found during the inspection required by paragraph (h) of this AD, before further flight, and thereafter at intervals not to exceed 180 days, perform the C.I.C. application on the MLG in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of the service bulletin, until the next MLG overhaul. After the next MLG overhaul has been completed, no further action is required by this AD.

(2) If any corrosion is found during the detailed visual inspection required by paragraph (h) of this AD, before further flight, remove the cross bolt bushings and perform the detailed visual inspection specified in paragraph (e) of this AD, and remove the corrosion per Figure 2 of the service bulletin.

(i) If all of the corrosion can be removed, perform the actions specified in paragraph (h)(2)(i)(A) and (h)(2)(i)(B) of this AD, at the applicable times indicated.

(A) Prior to further flight, perform the restoration steps shown in Figure 2 of the service bulletin, and thereafter at intervals not to exceed 180 days, perform the C.I.C. application on the MLG in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of the service bulletin.

(B) Within 18 months after the corrosion removal required by paragraph (h)(2) of this AD, perform the terminating action described in paragraph (i) of this AD.

(ii) If all the corrosion cannot be removed, before further flight, perform the terminating action required by paragraph (i) of this AD.

(3) If any crack is found during the detailed visual inspection required by paragraph (h) of this AD, before further flight, perform the terminating action described in paragraph (i) of this AD.

Terminating Action

(i) Perform the terminating action (including removal of the existing bushings, repair of the aft trunnion area of the outer cylinder, and machining and installation of new bushings) in accordance with ''Part 4—Terminating Action'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001. Completion of the terminating action terminates the requirements for the repetitive inspections and C.I.C. applications of this AD.

(j) Accomplishment of the actions specified in paragraph (i) of this AD is considered acceptable for compliance with the requirements of paragraph (e) of AD 2002–01–13, amendment 39–12607.

Spares

(k) As of the effective date of this AD, no person shall install on any airplane an MLG outer cylinder unless maintenance records conclusively show that JC5A has never been used on that MLG outer cylinder, or unless it complies with paragraph (i) of this AD.

Use of JC5A Prohibited

(l) As of the effective date of this AD, no person shall use the C.I.C. JC5A in the aft trunnion area of the MLG outer cylinder on any airplane.

Alternative Methods of Compliance

(m) 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 Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: 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

(n) Special flight permits may be issued in accordance with §§ 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

(o) The actions shall be done in accordance with Boeing Alert Service Bulletin 767–32A0192, dated May 31, 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

(p) This amendment becomes effective on May 6, 2002.

Issued in Renton, Washington, on April 11, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–9392 Filed 4–18–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–47–AD; Amendment 39–12709; AD 2002–08–02]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc. Models SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 2001–20–14, which currently requires you to replace the brake shuttle valves with parts of improved design and install a shield over the hydraulic lines on certain Fairchild Aircraft SA226 and SA227 series airplanes. AD 2001–20–14 also requires you to replace the rubber fuel hose with a metal device for certain SA226 series airplanes. This AD is the result of FAA incorrectly referencing Model SA226—T(A) airplanes and inadvertently omitting certain serial numbers of Model SA227—AC airplanes from the applicability of AD 2001–20–14. This AD retains the actions of AD 2001–20–14, corrects the reference of Model SA226—T(A) airplanes and adds additional Model SA227—AC airplanes to the applicability section of the AD. The actions specified by this AD are intended to correct potential brake shuttle valve problems, which could cause the brake assembly to drag and overheat. Hydraulic or fuel line damage could then occur if the overheated brake assembly is retracted into the main wheel well with a consequent fire if the hydraulic or fuel lines ruptured.

DATES: This AD becomes effective on June 6, 2002.

The Director of the Federal Register previously approved the incorporation by reference of certain publications listed in the regulations as of November 21, 2001 (66 FR 52020, October 12, 2001).

ADDRESSES: You may get the service information referenced in this AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–47–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The FAA received a report of an accident involving a Fairchild Model SA226—TC airplane where the flight crew lost control of the airplane at low altitude during the final approach for landing. Prior to the accident, the flight crew reported a loss of hydraulic pressure and a fire on the left side of the airplane. The report of this accident caused us to issue AD 2001–20–14, Amendment 39–12462 (66 FR 52020, October 12, 2001). This AD requires the following on certain Fairchild Aircraft SA226 and SA227 series airplanes:

—Replace the brake shuttle valves with parts of improved design (except on airplanes with an anti-skid/power brake system);

—Install a shield over the hydraulic lines; and

—Replace the rubber fuel hose with a metal device on certain SA226 series airplanes.

What Has Happened Since AD 2001–20–14 To Initiate This Action?

The FAA incorrectly referenced Model SA226—T(A) airplanes and inadvertently omitted certain serial numbers of Model SA227—AC airplanes from the applicability of AD 2001–20–14. In particular, we referenced serial numbers T(A)249 through T(A)291 as Model SA226—T(A) airplanes. These serial numbers should be T249 through T291, except T276, as Model SA226—T airplanes. We also restricted the applicability of Model SA227—AC airplanes to serial numbers AC406, AC415, AC416, and AC420 through AC599. Any Model SA227—AC airplane incorporating a serial number from AC600 through AC789 should also be affected by the actions of AD 2001–20–14.

What Is the Potential Impact if FAA Took No Action?

Original design brake shuttle valves, if not replaced with improved design valves, could cause the wheel brakes to drag and overheat. This could result in hydraulic or fuel line damage if the overheated brake assembly is retracted into the main wheel wells. A consequent fire could occur if the hydraulic or fuel lines ruptured.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Fairchild Aircraft SA226 and SA227 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 27, 2001 (66 FR 66828). The NPRM proposed to supersede AD 2001–20–14 with a new AD that would retain the actions of AD 2001–20–14, would correct the reference to Model SA226—T(A) airplanes, and would include additional Model SA227—AC airplanes in the Applicability section of the AD.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 186 SA226 Series airplanes and 72 SA227 Series airplanes in the U.S. registry for total of 258 affected airplanes.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the replacement and installation:

SA226 SERIES AIRPLANES

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
65 workhours × $60 per hour = $3,900.	$3,431	$7,331	$7,331 × 186 = $1,363,566

SA227 SERIES AIRPLANES

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
55 workhours × $60 per hour = $3,300	$1,369	$4,669	$4,669 × 72 = $336,168

The only difference between AD 2001–20–14 and this AD is the expanded applicability of Model SA227–AC airplanes that we inadvertently omitted from the ''Applicability'' section of AD 2001–20–14. However, the estimated number of total airplanes affected has not changed. The only impact this AD will have over that already required by AD 2001–20–14 is the burden to the owners/operators of the cost of the actions on the additional airplanes.

Compliance Time of This AD

What Will Be the Compliance Time of This AD?

The compliance time of this AD is at whichever of the following that occurs later:

—Within 500 hours time-in-service (TIS) after the effective date of this AD or AD 2001–20–14, as applicable; or

—Within 6 months after the effective date of this AD or AD 2001–20–14, as applicable.

Why Is the Compliance Time of This AD Presented in Both Hours TIS and Calendar Time?

The affected airplanes are used in both general aviation and commuter operations. Those commuter operators may accumulate 500 hours TIS on the airplane in less than 2 months and many owners have numerous affected airplanes in their fleets. We have determined that the dual compliance time:

—Gives all owners/operators of the affected airplanes adequate time to schedule and accomplish the actions in this AD; and

—assures that the unsafe condition referenced in this AD will be corrected within a reasonable time period without inadvertently grounding any of the affected airplanes.

Regulatory Impact

Does This AD Impact Various Entities?

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.

Does This AD Involve a Significant Rule or Regulatory Action?

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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under 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. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2001–20–14, Amendment 39–12462 (66 FR 52020, October 12, 2001), and by adding a new AD to read as follows:

2002–08–02 Fairchild Aircraft, Inc.: Amendment 39–12709; Docket No. 2001–CE–47–AD; Supersedes AD 2001–20–14, Amendment 39–12462.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

(1) GROUP 1.—FAIRCHILD AIRCRAFT INC. AIRPLANES RETAINED FROM AD 2001–20–14

Model	Serial Numbers
SA226–AT	AT001 through AT074.
SA226–T	T201 through T291, except T276.
SA226–T(B)	T(B) 276 and T(B) 292 through T(B) 417.
SA226–TC	TC201 through TC419.
SA227–AC	AC406, AC415, AC416, and AC420 through AC599.
SA227–AT	AT421, AT423 through AT631, and AT695.
SA227–TT	TT421 through TT555.
SA227–TT(300).	TT447, TT465, TT471, TT483, TT512, TT518, TT521, TT527, TT529, and 536.

(2) GROUP 2.—FAIRCHILD AIRCRAFT, INC. AIRPLANES ADDED TO THE APPLICABILITY OF THIS AD (NOT INCLUDED IN AD 2001–20–14)

Model	Serial Numbers
SA227–AC	AC600 through AC789

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD. This AD applies to any airplane identified in paragraph (a) of this AD with or without an anti-skid/power brake system installed.

(c) *What problem does this AD address?* The actions specified by this AD are intended to correct potential brake shuttle valve

problems, which could cause the brake assembly to drag and overheat. Hydraulic or fuel line damage could then occur if the overheated brake assembly is retracted into the main wheel well, with a consequent fire if the hydraulic or fuel lines ruptured.

(d) *What actions must I accomplish to address this problem for Group 1 airplanes?* To address this problem for Group 1 airplanes, you must accomplish the following:

Actions	Compliance	Procedures
(1) For all affected airplanes, except those equipped with an anti-skid/power brake system, replace each brake shuttle valve with part number (P/N) MS28767–4 brake shuttle valve (or FAA-approved equivalent part number).	Within 500 hours time-in-service (TIS) after November 21, 2001 (the effective date of AD 2001–20–14), or within 6 months after or November 21, 2001 (the effective date of AD 2001–20–14), whichever occurs later, unless already accomplished.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin No. 226–26–003 or Fairchild Aircraft Service Bulletin No. 227–26–002, as applicable. Effective pages, revision levels, and dates of the service bulletins are specified in paragraph (i) of number (P/N) this AD.
(2) For all affected airplanes, install a shield over the hydraulic lines.	Within 500 hours time-in-service (TIS) after November 21, 2001 (the effective date of AD 2001–20–14), or within 6 months after November 21, 2001 (the effective date of AD 2001–20–14), whichever occurs later, unless already accomplished.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin No. 226–26–003 or Fairchild Aircraft Service Bulletin No. 227–26–002, as applicable. Effective pages, revision levels, and dates of the service bulletins are specified in paragraph (i) of this AD.
(3) For all airplane models within the SA226 series, replace the rubber fuel hose with a metal device.	Within 500 hours time-in-service (TIS) after November 21, 2001 (the effective date of AD 2001–20–14), or within 6 months after November 21, 2001 (the effective date of AD 2001–20–154), whichever occur later, unless already accomplished.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin No. 226–26–SA226–003. Effective pages, revision levels, and dates of the service bulletin is specified in paragraph (i) of this AD.
(4) Do not install any brake shuttle value that is not a P/N MS28767–4 brake shuttle valve (or FAA–approved equivalent part number) or a fuel hose that is made out of rubber.	As of November 21, 2001 (the effective date of AD 2001–20–14).	Not Applicable.

(e) *What actions must I accomplish to address this problem for Group 2 airplanes?* To address this problem for Group 2 airplanes, you must accomplish the following:

Actions	Compliance	Procedures
(1) For all affected airplanes except those equipped with an anti-skid/power brake system, replace each brake shuttle valve with part number (P/N) MS28767–4 brake shuttle valve (or FAA-approved equivalent part number).	Within 500 hours time-in-service (TIS) after June 6, 2002 (the effective date of this AD) or within 6 months after June 6, 2002 (the effective date of this AD), whichever occurs later, unless already accomplished.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin No. 227–26–002. Effective pages, revision levels, and dates of the service bulletin is specified in paragraph (i) of this AD.
(2) For all affected airplanes, install a shield over the hydraulic lines.	Within 500 hours time-in-service (TIS) after June 6, 2002 (the effective date of this AD) or within 6 months after June 6, 2002 (the effective date of this AD), whichever occurs later, unless already accomplished.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin No. 227–26–002. Effective pages, revision levels, and dates of the service bulletin is specified in paragraph (i) of this AD.
(3) Do not install any brake shuttle valve that is not a P/N MS28767–4 brake shuttle valve (or FAA-approved equivalent part number) or a fuel hose that is made out of rubber.	As of June 6, 2002 (the effective date of this AD).	Not Applicable.

(f) *Can I comply with this AD in any other way?*

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Fort Worth Airplane Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

(2) Alternative methods of compliance approved in accordance with AD 2001–20–14, which is superseded by this AD, are approved as alternative methods of compliance with this AD.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, 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 (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(g) *Where can I get information about any already-approved alternative methods of compliance?* Contact Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

(h) *What if I need to fly the airplane to another location to comply with this AD?* The

FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(i) *Are any service bulletins incorporated into this AD by reference?*

(1) Actions required by this AD must be done in accordance with the following:

(i) Fairchild Service Bulletin No. 226–26–003, which incorporates the following pages:

Pages	Date
16	Issued: March 1, 2000.
14, 15	Issued: March 1, 2000, Revised: June 27, 2000.
17	Issued: March 1, 2000, Revised: October 2, 2000.
4, 5, 6, 7, 10, 11, 12, and 13	Issued: March 1, 2000, Revised: January 19, 2001.
1, 2, 3, 8, and 9	Issued: March 1, 2000, Revised: August 10, 2001.

and

(ii) Fairchild Service Bulletin No. 227–26–002, which incorporates the following pages:

Pages	Date
1, 2, 8, and 9	Issued: March 1, 2000.
7	Issued: March 1, 2000, Revised: June 27, 2000.
3, 4, 5, and 6	Issued: March 1, 2000, Revised: October 2, 2000.

(2) The Director of the Federal Register previously approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51 as of November 21, 2001 (66 FR 52020, October 12, 2001).

(3) You may get copies from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(j) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 2001–20–14, Amendment 39–12462.

(k) *When does this amendment become effective*? This amendment becomes effective on June 6, 2002.

Issued in Kansas City, Missouri, on April 8, 2002.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–9574 Filed 4–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2001–10432; Airspace Docket No. 01–AWA–05]

RIN 2120–AA66

Modification of the Santa Ana Class C Airspace Area; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Santa Ana, CA, Class C airspace area. Specifically, this rule standardizes and completes the 5 nautical mile (NM) inner circle; re-aligns the south and southwest quadrants; and expands the north and east boundaries of the Santa Ana Class C airspace area. The FAA is taking this action to improve the management of aircraft operations in the Santa Ana, CA, terminal area; enhance safety; reduce the potential for midair collision in the Santa Ana Class C airspace area; and accommodate the concerns of airspace users.

EFFECTIVE DATE: 0901 UTC, July 11, 2002.

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

SUPPLEMENTARY INFORMATION:

Background

In early 2001, the Southern California TRACON (SCT), and a California Users Group (an ad hoc committee that represents all major airspace users) reviewed the current Santa Ana Class C airspace area. The revocation of the El Toro Class C airspace area, which left the eastern side of the John Wayne Airport in Class E airspace instead of Class C airspace, prompted the review. The Technical Committee of the Southern California Users Group (SCAUWG) reviewed the Santa Ana Class C airspace area and developed recommendations for modifying the existing airspace design to provide pilots with a greater awareness of arriving and departing turbojet aircraft at John Wayne Airport, Santa Ana, CA.

As announced in the **Federal Register** (66 FR 13122, March 2, 2001), one pre-NPRM airspace meeting was held on March 28, 2001, at Los Alamitos Army Airfield, Los Alamitos, CA. The purpose of this meeting was to provide local airspace users with an opportunity to present input on planned airspace changes to the Santa Ana Airspace Area prior to initiating any regulatory action.

In response to the informal airspace meeting the FAA received six comments. Those comments were addressed in the NPRM.

On January 22, 2002, the FAA published, in the **Federal Register**, a notice of proposed rulemaking (NPRM) for this airspace (66 FR 2832). Interested parties were invited to participate in this rulemaking effort by submitting written communication on the proposal. The comment period for this action closed on March 8, 2002 and no comments were received.

The Rule

This action amends 14 Code of Federal Regulations (CFR) part 71 by modifying the Santa Ana, CA, Class C airspace area. Specifically, this action expands Area A to a complete 5 NM circle, which standardizes the inner circle. Area B to the south, and Area C to the southwest are re-aligned to provide additional airspace to accommodate Runway 1 arrivals. Changes to Area F in the north re-aligns the northern and eastern boundaries to improve the efficiency of Runway 19 arrivals. In addition, a new Area G is established to the east to accommodate instrument operations in an area formally within the revoked El Toro Class C airspace area. The FAA is taking this action to improve the management

of aircraft operations in the Santa Ana, CA, terminal area; enhance safety; reduce the potential for midair collision in the Santa Ana Class C airspace area; and accommodate the concerns of airspace users.

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

The coordinates for this airspace docket are based on North American Datum 83. Class C airspace designations are published in paragraph 4000 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class C airspace designation listed in this document will be published subsequently in the order.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

In view of the minimal cost impact of the rule, the FAA has determined that this final rule will not have a significant economic impact on a substantial number of small entities. Consequently, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Analysis

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

In accordance with the above statute, the FAA has assessed the potential effect of this proposed rule and has determined that it would have only a domestic impact and therefore create no obstacles to the foreign commerce of the United States.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 0104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for these small governments to provide input in the development of regulatory proposals.

This rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 4000—Subpart C—Class C Airspace

* * * * *

Santa Ana, CA [REVISED]

John Wayne Airport/Orange County, CA (lat. 33°40′32″ N., long. 117°52′06″ W.)

That airspace extending upward from the surface to and including 4400 feet MSL within a 5-mile radius of the John Wayne Airport/Orange County (SNA); that airspace extending upward from 1500 feet MSL to and including 5400 feet MSL beginning at a point southeast of SNA where the SNA 5NM radius and the POM 185° radial intersect, then south via the POM 185° radial to the SNA 10NM radius, then clockwise via the SNA 10NM radius to the PDZ 230° radial, then north via the PDZ 230° radial to the SNA 5NM radius, the counterclockwise via the SNA 5NM radius to the point of beginning; that airspace extending upward from 3500 feet MSL to and including 5400 feet MSL beginning at a point south of the SNA where the SNA 5NM radius

and the PDZ 230° radial intersect, then southwest via the PDZ 230° radial to the SNA 10NM radius, then clockwise via the SNA 10NM radius to the 251° bearing from SNA at 10NM, then north via a line extending between the SNA 251° bearing at 10NM and the SNA 351° degree bearing at 10NM to the shoreline, then via the shoreline southeast to the point of beginning; that airspace extending upward from 2500 feet MSL to and including 5400 feet MSL beginning at a point south of the SNA where the SNA 5NM radius and the PDZ 230° radial intersect then west via the shoreline to a line extending between the SNA 251° bearing at 10NM and the SNA 351° bearing at 10NM, then north via the line extending between the SNA 251° bearing at 10NM and the SNA 351° bearing at 10NM to the San Diego Freeway (I–405), then east via the San Diego Freeway (I–405) to the SNA 5NM radius, then counterclockwise via the 5NM radius to point of beginning; that airspace extended upward from 2500 feet MSL to and including 4400 feet MSL beginning west of SNA at a point where the SNA 5NM radius and the San Diego Freeway (I–405) intersect, then west via the San Diego Freeway (I–405) to a line extending between the SNA 251° bearing at 10NM and the SNA 351° bearing at 10NM, then north via the line extending between the SNA 251° bearing at 10NM and the SNA 351° bearing at 10NM, the clockwise via the SNA 10NM radius to the SNA 360° bearing, then south via the SNA 360° bearing to the SNA 5NM radius, then counterclockwise via the SNA 5NM radius to the point of beginning; that airspace extending upward from 2000 feet MSL to and including 4400 feet MSL beginning at a point where the SNA 5NM and the SNA 360° bearing intersect, then via the SNA 360° bearing to the SNA 10NM radius, then via the SNA 10NM radius clockwise to the SLI 075° radial to the LAX 098° radial, then east via the LAX 098° radial to the ELB 004° radial, then south via the ELB 004° radial to the PDZ 230° radial, then southwest via the PDZ 230° radial to the SNA 5NM radius, then counterclockwise via the SNA 5NM radius to the point of beginning; that airspace extending upward from 3500 feet MSL to and including 4400 feet MSL beginning northeast of SNA at a point where the SNA 5NM and the PDZ 230° radial intersect, then northeast via the PDZ 230° radial to the ELB 004° radial, then north via the ELB 004° radial, to the LAX 098° radial to POM 157° radial, then south via the POM 157° radial to the ELB 054° radial, then southwest via ELB 054° radial to ELB, then south via the ELB 184° radial to the SNA 10NM radius, then clockwise via the SNA 10NM radius to the POM 185° radial, then north via POM 185° radial to the SNA 5NM radius, then counterclockwise via the SNA 5NM radius to the point of beginning. This Class C airspace area is effective during the specific days and hours of operation of the Orange County Tower as established in advance by a Notice to Airman. The effective dates and times will thereafter be continuously published in the Airport/Facility directory.

* * * * *

Issued in Washington, DC, on April 2, 2002.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 02–8781 Filed 4–18–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 40

[T.D. ATF—478; Re: Notice No. 931]

RIN 1512–AC32

Elimination of Application To Remove Tobacco Products From Manufacturer's Premises for Experimental Purposes

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule.

SUMMARY: This final rule eliminates the requirements that manufacturers of tobacco products apply to ATF to remove tobacco products from their factories in bond for experimental purposes and that they maintain the approved applications for their records. In place of these requirements, manufacturers of tobacco products will prepare and maintain records of tobacco products removed from their factories in bond for experimental purposes. In addition, this final rule defines ''experimental purposes'' under section 5704(a) of Title 26 of the United States Code.

DATES: The effective date for this final rule is May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (telephone 202–927–8210 or e-mail *alctob@atfhq.atf.treas.gov).*

SUPPLEMENTARY INFORMATION:

Background

We published a notice of proposed rulemaking in the **Federal Register** on October 6, 2001 (66 FR 52730). It requested comments about a proposal to eliminate the requirements that manufacturers of tobacco products apply to ATF to remove tobacco products from their factories in bond for experimental purposes and that they maintain the approved applications for their records. In place of these requirements, manufacturers of tobacco products will prepare and maintain records of tobacco products removed from their factories in bond for experimental purposes. In addition, the proposed rule defined ''experimental purposes'' under section 5704(a) of Title 26 of the United States Code.

We did not receive any comments in response to our notice of proposed rulemaking. Consequently, we are publishing this final rule without any substantial changes except for the control number given by the Office of Management and Budget.

Regulatory Requirements

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities. Consequently, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. We also submitted the revised regulations to the Chief Counsel for Advocacy of the Small Business Administration for comment in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

We have determined that this rule is not a significant regulatory action because it will not: (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 Executive Order 12866.

Paperwork Reduction Act

The collection of information contained in this regulation has been reviewed under the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)). No public comments were received. The Office of Management and Budget (OMB) has issued control number 1512–0562 for this recordkeeping requirement. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The collection of information in this rule is found in 27 CFR 40.232. We use

this information to verify the kind and amount of tobacco products removed in bond from the premises of manufacturers for experimental purposes. In addition, we may use this information to determine that the persons to whom such removals are made are using the tobacco products for legitimate experimental purposes and that the tobacco products are properly destroyed or returned to the premises of a manufacturer following their experimental use. If such tobacco products are not destroyed or returned to the premises of a manufacturer, we will use this information to collect the taxes due.

The collection of information is mandatory. The likely respondents may include small businesses or organizations. We have estimated 165 recordkeepers and the total annual recordkeeping burden as 1 hour. The recordkeeping is customary and usual for business purposes.

Administrative Procedure Act

In accordance with the provisions of 5 U.S.C. 553, we issued a notice of proposed rulemaking (66 FR 52730) prior to this final rule.

List of Subjects in 27 CFR Part 40

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic fund transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

Authority and Issuance

For the reasons set forth in the preamble, part 40 of title 27 of the Code of Federal Regulations is amended to read as follows:

PART 40—MANUFACTURERS OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

1. The authority citation for part 40 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805, 31 U.S.C. 9301, 9303, 9304, 9306.

2. Revise § 40.232 to read as follows:

§ 40.232 Experimental purposes.

A manufacturer of tobacco products may use tobacco products for experimental purposes without determination and payment of tax as set forth in this section.

(a) *What are experimental purposes?* Experimental purposes are operations or tests carried out under controlled conditions to discover an unknown scientific principle or fact, to gather or confirm data about a known scientific principle or fact, or to test manufacturing, packaging, or other such equipment. Examples of uses for experimental purposes are:

(1) Use by manufacturers to determine scientific facts relating to tobacco products, such as their chemical content;

(2) Use by producers of packaging machines to test the operation of such machines; and

(3) Use by laboratories, hospitals, medical centers, institutes, colleges, or universities, for scientific, technical, or medical research.

(b) *What purposes are not experimental?* The uses of tobacco products outside the factory premises for advertising or consumer testing or as salespersons' or customers' samples are not experimental purposes.

(c) *Use in factory.* A manufacturer of tobacco products may use tobacco products without determination and payment of tax for experimental purposes in a factory.

(d) *Use outside factory.* A manufacturer may remove tobacco products in bond for experimental purposes outside a factory. When tobacco products are shipped for experimental purposes outside the factory, the proprietor of the factory remains liable for the taxes imposed by 26 U.S.C. 5701 until the occurrence of one of the following events:

(1) The tobacco products are returned to the premises of the factory from which they were shipped; or

(2) The tobacco products are destroyed during or after their use for experimental purposes.

(e) *Record of use.* In addition to the records prescribed by § 40.183, a manufacturer who removes tobacco products in bond for experimental purposes outside a factory must prepare and maintain a record containing the following information:

(1) Name and address of the consignee;

(2) Kind and quantity of tobacco products removed;

(3) Description of packaging, if any, of the tobacco products removed;

(4) Description of how and when the consignee will use the tobacco products; and

(5) Disposition of any remaining tobacco products after the consignee's use.

(Approved by the Office of Management and Budget under Control Number 1512–0562.)

(72 Stat. 1418, as amended; 26 U.S.C. 5704)

Signed: February 26, 2002.

Bradley A. Buckles,

Director.

Approved: March 28, 2002.

Timothy E. Skud,

Deputy Assistant Secretary, (Regulatory, Tariff, and Trade Enforcement).

[FR Doc. 02–9633 Filed 4–18–02; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA–02–024]

RIN 2115–AA97

Security Zone; Port of Tampa, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary fixed security zone in all waters extending in the vicinity of MacDill Air Force Base (AFB). This security zone is needed for national security reasons to protect MacDill AFB from potential subversive acts. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida, or his designated representative.

DATES: This regulation is effective at 7 a.m. on April 1, 2002 and will remain in effect until 7 a.m. on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Tampa–02–024] and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606–3598 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Michael Holland, Coast Guard Marine Safety Office Tampa, at (813) 228–2189 extension 130.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On December 3, 2001 we published a temporary final rule in the **Federal Register** entitled Security zone; Port of Tampa, Tampa, FL (66 FR 60151). That

temporary rule was extended by COTP Tampa–02–006 which expired on April 1, 2002.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard or other law enforcement vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

The Coast Guard created these temporary zones to allow the Army Corps of Engineers to develop a restricted area around this military installation. Since the restricted area is not complete, the Coast Guard finds that immediate action is necessary to ensure the security of this military installation.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to MacDill Air Force Base. This security zone will encompass all waters in the vicinity of MacDill Air Force Base commencing from a point at 27° 50.20′ N, 82° 32.14′ W; extending to a point at 27° 49.60′ N, 82° 32.14′ W; then south-easterly 1,000 yards from shore to a point at 27° 48.90′ N, 82° 28.20′ W; then circling 1,000 yards from shore to a point at 27° 51.51′ N, 82° 28.60′ W; then westerly to end at a point at 27° 51.51′ N, 82° 29.18′ W. All positions noted are fixed using the North American Datum of 1983 (World Geodetic System 1984). The Coast Guard will issue a broadcast notice to mariners regarding this security zone and what law enforcement vessels will be on-scene enforcing the zone. Entry into this security zone is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because this rule is in effect for a limited period of time and vessels may be allowed to enter the zone with the express permission of the Captain of the Port of Tampa.

Small Entities

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

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

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial

direct effect on one or more Indian tribes, on the relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or use. We have determined that it is not a ''significant energy action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T07–024 is added to read as follows:

§ 165.T07–024 Security Zone; Port of Tampa, Tampa Florida.

(a) *Regulated area.* The Coast Guard is establishing a temporary fixed security zone in all waters in the vicinity of MacDill Air Force Base commencing from a point at 27°50.20′ N, 82°32.14′ W; extending to a point at 27°49.60′ N, 82°32.14′ W; then south-easterly 1,000 yards from shore to a point at 27°48.90′ N, 82°28.20′ W; then circling 1,000 yards from shore to a point at 27°51.51′ N, 82°28.60′ W; then westerly to end at a point at 27°51.51′ N, 82°29.18′ W. All positions noted are fixed using the North American Datum of 1983 (World Geodetic System 1984).

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, or his designated representative. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 and 16 (157.1 MHz).

(c) *Dates.* This section becomes effective at 7 a.m. on April 1, 2002 and will remain in effect until 7 a.m. on June 15, 2002.

Dated: March 27, 2002.

S.J. Ferguson,

Acting Commander, Coast Guard, Captain of the Port, Tampa, FL.

[FR Doc. 02–9680 Filed 4–18–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–46–200221(a); FRL–7172–7]

Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State Implementation Plan (SIP) revisions submitted by the State of Georgia through the Georgia Environmental Protection Division (GAEPD) on August 9, 1999. These revisions pertain to Rules for Air Quality Control and Rules for Enhanced Inspection and Maintenance.

DATES: This direct final rule is effective June 18, 2002 without further notice, unless EPA receives adverse comment by May 20, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to: Scott Martin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

FOR FURTHER INFORMATION CONTACT: Scott Martin 404–562–9036. Email: martin.scott@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 9, 1999, the GAEPD submitted revisions to the Georgia SIP. The revisions pertain to Chapter 391–3–1 Rules for Air Quality Control and Chapter 391–3–20 Enhanced Inspection and Maintenance. The revisions were the subject of a public hearing held on May 12, 1999, and became State effective on July 8, 1999. The revisions are described below.

II. Analysis of State's Submittal

Rules for Air Quality Control Chapter 391–3–1–.01 Definitions

Rule 391–3–1–.01(yy) Particulate Matter Emissions

A statement is being added that states that the term ''Particulate Emissions'' as used in the Rules for Air Quality Control has the same meaning as the term ''Particulate Matter Emissions.''

Rule 391–3–1–.01(llll) Volatile Organic Compound (VOC)

The definition of VOC is being amended to be consistent with the EPA definition by adding methyl acetate to the list of chemicals which are designated to have negligible photochemical reactivity. Various technical corrections were made.

Rules for Enhanced Inspection and Maintenance

Rule 391–3–20–.01 Definitions

The definition for ''I/M Test Manual'' is updated to the version dated April 9, 1999.

Rule 391–3–20–.05 Emission Standards. Amended

Paragraph (2)(b) is being amended to extend the use of ASM start-up exhaust emission standards until the EPA concludes a confirmation of the stringency of final exhaust emission standards and GAEPD establishes a new effective date for the final standards.

Rule 391–3–20–.21 Inspection Fees. Amended

Subparagraph (3)(c) is being amended to extend through July 31, 1999, the $25.00 fixed test fee and the issuing of an administrative fee credit of $6.30 to an inspection station owner for each ASM test performed.

III. Final Action

EPA is approving the aforementioned changes to the Georgia SIP because they are consistent with the Clean Air Act and Agency requirements.

The EPA is publishing this rule without prior proposal because the

Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 18, 2002 without further notice unless the Agency receives adverse comments by May 20, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the direct final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published elsewhere in this **Federal Register**. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 18, 2002 and no further action will be taken on the proposed rule published elsewhere in this **Federal Register**. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 18, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 8, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

PART 52—[AMENDED]

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

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

Subpart L—Georgia

2. Amend § 52.570(c) by revising table entries 391–3–.01 and 391–3–20 to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Comments
391–3–1–.01	Definitions	7/8/99	4/19/02	
*	* * *	*	*	*
391–3–20	Enhanced Inspection and Maintenance	7/8/99	4/19/02	
*	* * *	*	*	*

[FR Doc. 02–9490 Filed 4–18–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Region II Docket No. NY56–240; FRL–7172–6]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 23, 1999, the New York State Department of Environmental Conservation (NYSDEC) submitted a request to EPA to redesignate the New York portion of the New York—Northern New Jersey—Long Island Carbon Monoxide (CO) nonattainment area from nonattainment to attainment of the National Ambient Quality Standard (NAAQS) for CO. By this action, EPA is approving the NYSDEC's request to redesignate the New York portion of the New York—Northern New Jersey—Long Island CO nonattainment area to attainment of the NAAQS for CO.

EPA is approving the New York request because it meets the redesignation requirements set forth in the Clean Air Act (CAA). In addition, EPA is approving New York's CO maintenance plan because it provides for continued attainment of the CO NAAQS.

EPA is also approving the New York CO attainment demonstration that was submitted by NYSDEC on November 15, 1992. This action provides for full approval of the New York State Implementation Plan (SIP) for CO. The intended effect of this action is to approve a plan that demonstrates that the CO standard has been attained and will continue to be attained.

In a related matter, EPA is approving New York's March 22, 2000 submittal of the Downtown Brooklyn Master Plan component of the CO attainment demonstration. This removes several transportation control measures from the SIP that have been demonstrated as no longer necessary to attain and maintain the NAAQS for CO.

Finally, EPA is using today's action as an opportunity to establish a Carbon Monoxide section in the Code of Federal Regulations (CFR) Subpart for the New York SIP. This is an administrative change designed to make the CFR more clear to the reader.

EFFECTIVE DATE: This action will be effective May 20, 2002.

ADDRESSES: Copies of the State submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 20th Floor, New York, New York 10007–1866 New York Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233

FOR FURTHER INFORMATION CONTACT: Henry Feingersh, Air Programs Branch, Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866, (212) 637–4249

SUPPLEMENTARY INFORMATION:

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1. *Background*
2. *Public Comments*
3. *New Code of Federal Regulations (CFR) Section*
4. *Conclusion*
5. *Administrative Requirements*

1. Background

The New York portion of the New York—Northern New Jersey—Long Island CO nonattainment area is classified as a moderate 2 area (an area that has a design value of 12.8—16.4 parts per million (ppm)). This area, which is part of the New York—Northern New Jersey—Long Island Consolidated Metropolitan Statistical Area (CMSA), includes the Counties of Bronx, Kings, New York, Queens, Richmond, Nassau, and Westchester. The remainder of New York State is in attainment for CO.

This area was designated nonattainment for CO under the provisions of sections 186 and 187 of the CAA. The area was classified moderate 2 because it had a design value of 13.5 ppm based on 1988 and 1989 data. (See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR part 81, § 81.333.) This design value was based on ambient CO data recorded in Kings County, New York.

On September 21, 1990, New York submitted a revision to the New York SIP to attain the CO air quality standard in the Brooklyn portion of the New York City metropolitan area (Downtown Brooklyn Master Plan). On November 13, 1992, New York submitted to EPA proposed revisions to its CO SIP that addressed each of the requirements for a moderate CO nonattainment area. Finally, on March 21, 1994, New York submitted to EPA additional information pertaining to its CO SIP. On September 15, 1995 (60 FR 47911), EPA proposed approval of these three submittals and on July 26, 1996 (61 FR 38594) EPA finalized those approvals. EPA did not act upon New York's CO attainment demonstration in those actions because it relied on emission reductions from the enhanced inspection and maintenance program which was not approved at that time.

On November 23, 1999, the State of New York submitted a CO redesignation request and a maintenance plan for the New York portion of the New York—Northern New Jersey—Long Island CMSA. This submittal contained evidence that public hearings were held on September 7, 1999 for the CO redesignation request including a maintenance plan and on September 9, 1999 for the Downtown Brooklyn Master Plan. The State submitted the final Downtown Brooklyn Master Plan SIP revision on March 22, 2000.

On May 7, 2001, (66 FR 22922), EPA approved the New York Inspection and Maintenance program, thereby, removing the last obstacle to approval of the CO attainment demonstration. With an approvable attainment demonstration, EPA also could take

actions on the State's redesignation request. Accordingly, EPA proposed approval of the State's redesignation request on August 30, 2001 (66 FR 45806). The reader is referred to the proposal for a detailed discussion of EPA's action. The comment period was originally October 1, 2001 but was later extended to November 15, 2001 because of disruptions in communications related to the events of September 11, 2001.

2. Public Comments

No adverse comments were received in response to EPA's proposed action on this New York SIP revision.

3. New Code of Federal Regulations (CFR) Section

EPA is using this action as an opportunity to add a new section to 40 CFR Part 52 entitled ''Control strategy: Carbon Monoxide'' to clearly identify the State's CO implementation plan and attainment status. This is an administrative change designed to display this action as well as previous CFR entries pertaining exclusively to CO in New York in a more clear and accessible format. Future CFR entries pertaining to CO in New York State will also be included in this section.

This section will now include a summary of the September 29, 1993 (58 FR 50851) EPA approval of a CO redesignation request and maintenance plan for Onondaga County. The details of this approval can be found in 40 CFR 52.1670(c)(86). In addition, today's rulemaking on the New York metropolitan area CO SIP will be incorporated into the new section. Any future actions pertaining specifically to the New York CO SIP will also be included here.

4. Conclusion

EPA has evaluated New York's submittals for consistency with the CAA and Agency regulations and policy. EPA is approving New York's 1992 CO attainment demonstration along with the required control measures because it demonstrates attainment of the CO standard and meets CAA requirements. EPA is approving New York's CO maintenance plan because it meets the requirements set forth in section 175A of the CAA. In addition, the Agency is approving the request for redesignating the New York portion of the New York—Northern New Jersey—Long Island CO nonattainment area to attainment, because New York State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. Additionally, EPA is approving the update to the Downtown Brooklyn Master Plan dated March 22, 2000. Finally, EPA is establishing a new section of the CFR to present the New York CO SIP.

5. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This final action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this final rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This final 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2). This rule will be effective May 20, 2002.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 18, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: April 2, 2002.

Jane M. Kenny,

Regional Administrator, Region 2.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart HH—New York

2. Section 52.1682 is added to read as follows:

§ 52.1682 Control strategy: Carbon monoxide.

(a) Approval—The November 13, 1992 revision to the carbon monoxide state implementation plan for Onondaga County. This revision included a maintenance plan which demonstrated continued attainment of the National Ambient Air Quality Standard for carbon monoxide through the year 2003.

(b) Approval—The November 13, 1992 and March 21, 1994 revisions to the carbon monoxide state implementation plan for the New York portion of the New York—Northern New Jersey—Long Island Carbon Monoxide nonattainment area. This included an attainment demonstration and the control measures needed to attain the National Ambient Air Quality Standard for carbon monoxide. In addition, the September 21, 1990 Downtown Brooklyn Master Plan and revision dated March 22, 2000 is a component of the carbon monoxide attainment plan. The November 23, 1999, request to redesignate the New York portion of the New York—Northern New Jersey—Long Island Carbon Monoxide nonattainment area from nonattainment to attainment of the National Ambient Air Quality Standard for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan which demonstrated continued attainment of the National Ambient Air Quality Standard for carbon monoxide through the year 2012.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

2. In § 81.333, the table for ''New York—Carbon monoxide'' is amended by revising the entry for ''New York—N. New Jersey—Long Island Area:'' to read as follows:

§ 81.333 New York.

* * * * *

NEW YORK—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
New York-N. New Jersey-Long Island Area:	5/20/02	Attainment		
Bronx County				
Kings County				
Nassau County				
New York County				
Queens County				
Richmond County				
Westchester County				
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 02–9493 Filed 4–18–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0018; FRL–6833–9]

RIN 2070–AB78

Sodium Starch Glycolate; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of sodium starch glycolate when used as an inert ingredient (disintegrant) in granular or tableted pesticide products, in or on growing crops, when applied to raw agricultural commodities after harvest, or to animals under the Federal Food, Drug, and Cosmetic Act, (FFDCA) as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective April 19, 2002. Objections and requests for hearings, identified by docket control number OPP–2002–0018, must be received by EPA on or before June 18, 2002.

FOR FURTHER INFORMATION CONTACT: By mail: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305–6304; and e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

Categories	NAICS Codes	Examples of Potentially Affected Entities
	32532	Pesticide manufacturing

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

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0018. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

In a letter to the Agency dated June 28, 1994, Generichem Corp, now located at 755 Union Boulevard in Totowa, New Jersey 07511–0457 requested that 40 CFR 180.1001 (c) and (e), be amended by establishing an exemption from the requirement of a tolerance for residues of sodium starch glycolate. The action was assigned pesticide petition (PP) number 5E4433.

EPA on its own initiative, under section 408(e) of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170) issued a proposal in the **Federal Register** on January 17, 2002, (67 FR 2392) (FRL–6818–2) to establish an exemption from the requirement of a tolerance for residues of sodium starch glycolate (CAS Reg. No. 9063–38–1) when used as an inert ingredient (disintegrant). No comments were received in response to the proposed rule.

Based on the reasons set forth in the preamble to the proposed rule, EPA is establishing tolerance exemptions in 40 CFR 180.1001 (c) and (e) for residues of sodium starch glycolate (CAS Reg. No. 9063–38–1).

III. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–2002–0018 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 18, 2002.

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

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

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

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

Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–2002–0018, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

IV. Regulatory Assessment Requirements

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

V. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: April 9, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. In section 180.1001 the tables in paragraphs (c) and (e) are amended by adding alphabetically the following inert ingredient to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* *	* * * * *	
Sodium starch glycolate (CAS Reg. No. 9063–38–1)	Granular and tableted products only; not to exceed 8% of the formulated product	Disintegrant
* *	* * * * *	

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* *	* * * * *	
Sodium starch glycolate (CAS Reg. No. 9063–38–1)	Granular and tableted products only; not to exceed 8% of the formulated product	Disintegrant
* *	* * * * *	

[FR Doc. 02–9653 Filed 4–18–02; 8:45 am]

BILLING CODE 6560–50–S

LEGAL SERVICES CORPORATION

45 CFR Part 1639

Welfare Reform

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This Final Rule amends the Legal Services Corporation's rule relating to limitations on grantee activities challenging or seeking reform of a welfare system. The main change, to delete the prohibition on the representation of an individual seeking welfare benefits if any such representation involves an effort to amend or otherwise challenge existing law, is necessitated to conform the regulation to the U.S. Supreme Court's decision *Legal Services Corporation* v. *Velázquez, et al.* A definition of a term only used in the now deleted phrase is also being deleted.

DATES: This final rule is effective May 20, 2002.

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

SUPPLEMENTARY INFORMATION: On February 28, 2001, the United States Supreme Court issued a decision in *Legal Services Corporation* v. *Velázquez, et al.*, Nos. 99–603 and 99–960, 121 S. Ct. 1043, 2001 WL 193738 (U.S.), striking down as unconstitutional the restriction prohibiting LSC grantees from challenging welfare reform laws when representing clients seeking specific relief from a welfare agency. The stricken restriction was first imposed by Congress in section 504(a)(16) of the FY 1996 Legal Services Corporation appropriations legislation (the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104–134, 110 Stat. 1321–53 (1996)) and was retained in each subsequent annual LSC appropriation through FY 2002. The relevant portion of section 504(a)(16) prohibited funding of any organization:

> that initiates legal representation or participates in any other way, in litigation, lobbying, or rulemaking, involving an effort to reform a Federal or State welfare system, except that this paragraph shall not be construed to preclude a recipient from representing an individual eligible client who is seeking specific relief from a welfare agency if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation.

This restriction was incorporated into LSC's regulations at 45 CFR Part 1639. Specifically, 45 CFR 1639.3, Prohibition, provides that:

> Except as provided in §§ 1639.4 and 1639.5, recipients may not initiate legal representation, or participate in any other way in litigation, lobbying or rulemaking, involving an effort to reform a Federal or State welfare system. Prohibited activities include participation in:
>
> (a) Litigation challenging laws or regulations enacted as part of an effort to reform a Federal or State welfare system.
>
> (b) Rulemaking involving proposals that are being considered to implement an effort to reform a Federal or State welfare system.
>
> (c) Lobbying before legislative or administrative bodies undertaken directly or through grassroots efforts involving pending or proposed legislation that is part of an effort to reform a Federal or State welfare system.

45 CFR 1639.4, Permissible representation of eligible clients, provides that:

> Recipients may represent an individual eligible client who is seeking specific relief from a welfare agency, if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation.[1]

The Supreme Court in *Velázquez,* upholding the decision of the Court of Appeals, invalidated that portion of the statute which provides that representation of an individual eligible client seeking specific relief from a welfare agency may not involve an effort to amend or otherwise challenge existing law. The Court held that such a qualification constitutes impermissible viewpoint discrimination under the First Amendment because it ''clearly seeks to discourage challenges to the status quo.'' 121 S. Ct. 1043, 1047 (2001).

In determining specifically which language in the 1996 Act to strike as invalid, the Supreme Court noted that the Court of Appeals had concluded that

[1] The exception at § 1639.5 regarding public rulemaking and responding to requests with non-LSC funds is not at issue here.

congressional intent regarding severability was unclear. Since that ''determination was not discussed in the briefs of either party or otherwise contested'' in the appeal to the Supreme Court, the majority opinion noted that it was exercising its ''discretion and prudential judgement'' by declining to address the issue. Id. at 1053. Instead, the Supreme Court opted to simply affirm the decision of the Court of Appeals to ''invalidate the smallest possible portion of the statute, excising only the viewpoint-based proviso rather than the entire exception of which it is a part.'' Id. at 1052.

The effect of the *Velazquez* decision was to render the stricken language null and void. This means that the limitation on representation of an individual eligible client seeking specific relief from a welfare agency which prohibits any such representation from involving an effort to amend or otherwise challenge existing law is not valid and may not be enforced or given effect. An individual eligible client seeking relief from a welfare agency may be represented by a recipient without regard to whether the relief involves an effort to amend or otherwise challenge existing welfare reform law.

In light of foregoing, at its June 2001 meeting the LSC Board of Directors identified Part 1639 as an appropriate subject for rulemaking for the purpose of amending the regulation to make it conform to the decision in *Velazquez*. LSC published a notice of proposed rulemaking on November 26, 2001, proposing to amend part 1639 by deleting the words ''if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation'' and by changing the comma after the word ''agency'' to a period.[2]

LSC received six comments on the NPRM. All of the commenters supported the proposed change. Each of the comments also suggested that LSC should remove the definition of ''existing law'' at 1639.2(b), since the only place in which the term appears is in the phrase to be deleted. LSC agrees that the deletion of the definition of the term ''existing law'' is appropriate. Accordingly, the term is being deleted and, as there will now be only one paragraph in this section remaining, paragraph (a) is being relabeled to remove the paragraph designator.

One commenter also suggested that LSC restate the guidance in Program Letter 01–3 that a recipient may represent an individual eligible client seeking relief from a welfare agency without regard to whether the relief involves an effort to amend or otherwise challenge existing welfare reform law. Although LSC believes that this is clear from the regulatory action, LSC has no objection to reiterating this point and does so herewith.

For reasons set forth above, LSC amends 45 CFR Part 1639 as follows:

PART 1639—WELFARE REFORM

1. The authority citation continues to read as follows:

Authority 42 U.S.C. 2996g(e); Pub. L. 104–208, 110 Stat. 3009; Pub. L. 104–134, 110 Stat. 1321.

2. Section 1639.2 is being amended to remove the paragraph designator (a) from before the definition of ''an effort to reform a Federal or State welfare system'' and to remove paragraph (b) in its entirety. Section 1639.2 is revised to read in its entirety:

§ 1639.2 Definitions.

An effort to reform a Federal or State welfare system includes all of the provisions, except for the Child Support Enforcement provisions of Title III, of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Personal Responsibility Act), 110 Stat. 2105 (1996), and subsequent legislation enacted by Congress or the States to implement, replace or modify key components of the provisions of the Personal Responsibility Act or by States to replace or modify key components of their General Assistance or similar means-tested programs conducted by States or by counties with State funding or under State mandates.

§ 1639.4 [Amended]

3. Section 1639.4 is amended by removing the words ''if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation'' and by changing the comma after the word ''agency'' to a period.

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

[FR Doc. 02–9331 Filed 4–18–02; 8:45 am]

BILLING CODE 7050–01–P

[2] Subsequent to the issuance of the NPRM, Congress acted to amend the language of section 504(a)(16) to make it conform to the decision in *Velázquez*. Specifically, the FY 2002 LSC appropriation bill amended section 504(a)(16) of the FY 1996 legislation ''by striking 'if such relief does not involve' and all that follows through ''representation.''' See Pub. L. 107–77; 115 Stat. 748 (November 28, 2001). This action provides further authority for LSC's action in this final rule.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[DOT Docket No. NHTSA–99–5157]

RIN: 2127–AH03

Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: In this document, NHTSA amends the Federal Motor Vehicle Safety Standard on bus emergency exits and window retention and release to reduce the likelihood that wheelchair securement anchorages will be installed in locations that permit wheelchairs to be secured where they block access to emergency exit doors. Among other provisions, the final rule restricts, on new school buses, wheelchair securement anchorages from being placed in an area bounded by 305 mm (12 inches) forward and rearward of the center of the side emergency exit door aisle; and for the rear emergency exit door, an area bounded by a horizontal plane 1,145 mm (45 inches) above the bus floor and 305 mm (12 inches) forward of the bottom edge of the door opening (for school buses with a gross vehicle weight rating over 4,536 kg (10,000 lb)) and 150 mm (6 inches) forward of the bottom edge of the door opening (for school buses with a GVWR of 4,536 kg or less). Warning labels are specified for emergency exit doors and emergency exit windows not to block the exits.

This final rule applies to school buses equipped with wheelchair securement anchorages. Nothing in this final rule requires school buses to be so equipped.

DATES: This rule is effective April 21, 2003. Optional early compliance with the changes made in this final rule is permitted beginning April 19, 2002. Any petitions for reconsideration of this final rule must be received by NHTSA not later than June 3, 2002.

ADDRESSES: Petitions for reconsideration should refer to the docket number for this action and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. Charles Hott, Office of Crashworthiness

Standards at (202) 366–0247. His FAX number is (202) 493–2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel at (202) 366–2992. Her FAX number is (202) 366–3820.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

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I. Background

NHTSA has long recognized the safety need for means of readily accessible emergency egress from a school bus in the event of a crash or other emergency. The agency addressed this safety need by issuing Safety Standard No. 217, *Bus Emergency Exits and Window Retention Release* (49 CFR 571.217).

As a result of incidents like the 1988 Carrollton, Kentucky tragedy, in which 27 persons died in a school bus fire following a crash,[1] NHTSA issued a final rule amending Standard No. 217 (November 2, 1992, 57 FR 49413) by revising the minimum requirements for school bus emergency exits, requiring additional emergency exit doors on school buses, and improving access to school bus emergency doors. In that final rule, the agency stated that the preferred method of providing access to side emergency exit doors was by creating a dedicated aisle. Thus, S5.4.2.1(2) and Figures 5B and 5C were added to the standard to require a 30 centimeter (12 inch) wide restricted area to provide access to side emergency exit doors.

In a final rule published on January 15, 1993 (58 FR 4586), NHTSA amended Standard No. 222, *School bus passenger seating and crash protection* (49 CFR 571.222), by establishing minimum safety requirements for school buses equipped with wheelchair securement devices and occupant restraint systems. If a school bus is equipped with those devices and systems, they must meet specified performance requirements. One requirement is that the wheelchair securement anchorages at each wheelchair securement location must be situated so that a wheelchair can be secured in a forward-facing position. Another is that wheelchair securement devices must secure wheelchairs at two points on the front of each wheelchair and two points on the rear (see S5.4.1.2). The amendments to Standard No. 222 did not address the location of wheelchair securement anchorages within the school bus itself.

In April 1996, the State of New York's Department of Transportation (NYDOT) asked whether wheelchair positions must meet the clearance specifications in S5.4.2.1 (*School bus emergency exit opening*) of Standard No. 217. According to NYDOT, some school districts in New York had requested permission to purchase school buses whose wheelchair anchorages are placed in front of emergency exits. This is done apparently to maximize the number of seating positions on the school bus. The alternative would be to remove school bus seats to make room for the anchorages in locations away from the exits. Use of wheelchair anchorages near the exits could result in wheelchairs being placed where they would block the aisle to the emergency exit. New York's regulations do not prohibit a school bus emergency exit from being blocked with a wheelchair while the bus is in motion. NYDOT officials provided schematics from three different bus manufacturers showing wheelchair anchorages placed in front of emergency exits.

The agency has interpreted the existing requirements in Standard No. 217 as not prohibiting locating wheelchair anchorages adjacent to emergency exits. In response to a letter from Thomas Built Buses asking if it would be a violation of Standard No. 217 to place a wheelchair anchorage within the clearance area specified by S5.4.2.1 for the rear emergency exit door, NHTSA stated, in a letter of October 28, 1977, that the sufficiency of the size of the exit opening would be determined without first installing a wheelchair at that anchorage location:

> NHTSA will measure the opening using the prescribed parallelepiped device as the vehicle is constructed in its unloaded condition. Since the wheelchair would not be present when the vehicle was in its unloaded condition, your location of the wheelchair would not violate the standard.

II. Access to Side Door Emergency Exits and Rear Door Emergency Exits

NHTSA has conducted rulemaking on two separate occasions to promote the availability and accessibility of school bus exits.

Rear Emergency Exit Door—Access to the rear emergency exit door was addressed in a final rule published on January 27, 1976 (41 FR 3871)(there is no DMS Docket No.). The rule required that there be a 45 inch x 25 inch x 12 inch (1,143 mm x 610 mm x 305 mm) space adjacent to the rear emergency exit door for school buses with a gross vehicle weight rating over 4,536 kg (10,000 lb.).

Side Emergency Exit Doors—Side door emergency access requirements were established in a final rule published on November 2, 1992 (57 FR 49413)(there is no DMS Docket No.). In specifying a minimum dedicated restricted area of at least 305 mm (12 inches), the rule prohibited the placement of any seats within the aisle unless the seats have bottoms that automatically flip up when unoccupied and assume a vertical position outside the aisle.

In the March 15, 1991 NPRM (56 FR 11153)(there is no DMS Docket No.) that preceded the November 1992 final rule, NHTSA had considered the alternative

[1] In that incident, the ability of the bus occupants to exit from the burning bus was hampered by cargo that had been placed in front of the rear emergency exit door.

of establishing a dedicated aisle for side doors similar to that established for rear emergency exit doors. It would have created a dedicated aisle by requiring that a parallelepiped[2] be able to pass unobstructed 305 mm (12 inches) into the passenger compartment. NHTSA recognized in the NPRM that that requirement would improve access to the side emergency exit door, but noted that it would eliminate two seating positions, one next to the side door, and the one immediately behind that position. Further, under Standard No. 222, *School bus passenger seating and crash protection,* it would have been necessary to provide a barrier in front of the first seating position located next to the side of the bus and to the rear of the side door. NHTSA expressed its belief that the cost of implementing the alternative would be ''considerable.'' (56 FR at 11160)

Although some public commenters supported adopting the alternative for the side emergency exit door, the agency decided not to adopt it, concluding in the November 1992 final rule that ''there is not sufficient justification or experience to require dedicated aisles.'' (57 FR at 49419).

III. 1999 Notice of Proposed Rulemaking

The information supplied by NYDOT suggested that an amendment to Standard No. 217 was needed to ensure that wheelchairs cannot be secured in locations where they interfere with access to safety exits. Therefore, in the **Federal Register** publication of March 5, 1999 (64 FR 10604)(DOT Docket No. NHTSA–99–5157), NHTSA proposed amending Standard No. 217 to prohibit the placement of wheelchair securement anchorages in the aisle of an emergency exit. In addition, for any side emergency exit door, NHTSA proposed to prohibit placement of any anchorage within 685 mm (25 inches) (in typographical errors, in the regulatory text, the number ''17 inches'' was used, and the draft Figure 6A showed 435 mm, or 17 inches) on either side from the center of the school bus side emergency exit door aisle. One of the agency's concerns was that if anchorages were on either side of an aisle, they could be used to secure a wheelchair directly in front of the emergency exit. NHTSA expressed its belief that, taken together, these proposed prohibitions would prevent wheelchair securement anchorages and devices from being installed, and wheelchairs from being secured, in locations that could result in the blocking of access to an emergency exit.

As an alternative to a prohibition against installing any wheelchair securement anchorages in a zone on either side of an exit, NHTSA requested comments on whether a requirement for information labels would achieve the same result. NHTSA proposed the following regulatory text for the warning label to be placed next to each emergency exit:

Warning: It Is Unsafe To Secure a Wheelchair in a Location Where the Wheelchair Blocks the Aisle to an Exit

NHTSA emphasized that the proposals in the NPRM would only apply to those school buses in which wheelchair securement locations are provided. Nothing in the proposal would have required that a manufacturer provide a wheelchair securement location on a school bus. The proposal did not apply to wheelchair lift doors that are not considered emergency exits.

NHTSA raised the following issues for public comment—

1. The extent to which school buses have been or are being designed so that wheelchairs can be secured so as to hinder access to any emergency exit.
2. Whether the proposed regulatory language would achieve the desired result of preventing wheelchair securement anchorages and devices and wheelchairs from being positioned so that they block access to the emergency exit.
3. Whether the proposed regulatory language could be more narrowly crafted so that, for instance, it would not prohibit wheelchair securement anchorages from being installed just forward of a side emergency exit if the wheelchair securement devices attached to those anchorages could be used only for the purpose of installing a wheelchair forward of those anchorages, and thus forward of the exit aisle as well. An example of such language is set forth below:

A school bus shall not have a wheelchair securement device that can be used, in combination with other wheelchair securement devices installed in the bus, to secure a wheelchair so that any portion of the wheelchair is located within the area defined—

(a) on the front side, by a transverse vertical plane tangent to the front edge of a side exit door,

(b) on the back side, by a transverse vertical plane tangent to the rear edge of that door,

(c) on the outboard side, by the plane of the doorway opening, and

(d) on the inboard side, by a longitudinal vertical plane passing through the longitudinal centerline of the bus.

4. The extent to which seating capacity (both wheelchair and non-wheelchair) would be reduced in any school buses produced in the future if this proposal were made final.
5. Whether the need for safety would be met if, in lieu of the restrictions on wheelchair anchorages proposed in this NPRM, NHTSA were to require placing labels on schoolbuses with wheelchair locations that state it is unsafe to use a wheelchair securement device to secure a wheelchair in a location where the wheelchair blocks the aisle to an exit. Would the possibility of tort actions based on those labels effectively discourage the securing of wheelchairs in emergency exit aisles?
6. Should NHTSA both require a warning label and prohibit the installation of wheelchair securement devices that make it possible to secure a wheelchair in an area where it will block access to an emergency exit?
7. NHTSA seeks comment on whether these requirements should apply to all buses. If so, how can this be incorporated into the regulatory text? NHTSA is not aware of any other bus types that are manufactured with devices designed to secure wheelchairs that will block access to an emergency exit.

In addition to the above, NHTSA also proposed to amend the regulatory text in S5.4.2.1(a)(1) to clarify that the lower surface of the parallelepiped be in contact with the floor of the bus until the lower edge of the rear surface is tangent to the plane at the bottom of the rear emergency exit door opening. This clarification modifies that paragraph to reflect previous agency interpretations that the rearmost surface of the parallelepiped be tangent to the plane of the rear emergency door opening.

Leadtime—In the NPRM, NHTSA proposed that the amendments would take effect one year after the publication of the final rule. NHTSA stated its belief that one year is enough lead time for industry to make any necessary change. The agency proposed also that manufacturers of school buses with wheelchair positions be given the option of complying immediately with the new requirements.

IV. Public Comments and NHTSA's Response; Final Rule

A. Summary of Final Rule Provisions

The following is a summary of the final rule's provisions. Where necessary, the changes between the NPRM and the final rule are outlined. Rationales for the final rule's provisions, many of which were adopted in response to public comments, are provided in the following sections of Part IV.

1. *Measurements in S5.4.2.1(a)(1)*—In the NPRM, NHTSA proposed to nonsubstantively amend S5.4.2.1(a)(1) by converting metric measurements specified in centimeters to metric measurements specified in millimeters. In this final rule, the millimeter measurements are adopted, except for the proposal that the parallelepiped be

[2] The parallelpiped must be identical in size (45 inch x 25 inch x 12 inch) (1143 mm x 610 mm x 305 mm) to the one used for the rear door opening.

1,143 millimeters high. NHTSA is committed to thinking in metric measurements as we develop new procedures. In keeping with this, we try to specify our metric requirements in a number of millimeters that ends in 0 or 5. Thus, our parallelepiped is specified as 1,145 millimeters. S5.4.2.1(a)(1) includes, in parentheses, the English measurement equivalent for the metric measurements.

2. *Restrictions on Location of Wheelchair Securement Anchorages Near Side Emergency Exit Doors*—In the NPRM, NHTSA proposed to restrict wheelchair securement locations in an area bounded by 685 mm (25 inches) forward and rearward of the center of the side emergency exit door restricted area. In the final rule, the restriction is on wheelchair securement locations in an area bounded by 305 mm (12 inches) forward and rearward of the center of the side emergency exit door restricted area.

3. *Restrictions on Location of Wheelchair Securement Anchorages Near Rear Emergency Exit Doors*—In the NPRM, NHTSA proposed to specify the space ''bounded by a rectangular parallelepiped'' in which any portion of the wheelchair securement anchorage shall not be located. One space was proposed for all school buses. In the final rule, after reconsideration, NHTSA has decided to define the space where wheelchair securement anchorages shall not be located by using transverse vertical planes and longitudinal vertical planes. NHTSA has determined that defining the space by using planes better meets NHTSA's intention in restricting spaces where the wheel chair securement may not be placed, as the space defined by planes would explicitly include the floor near the school bus rear emergency exit door. In the final rule, NHTSA defines two restricted spaces, depending on the size of the school bus. For school buses with a gross vehicle weight rating (GVWR) over 4,536 kg (10,000 lb), the restricted space is

> bounded by longitudinal vertical planes tangent to the left and right sides of the [rear] door opening, a transverse vertical plane 305 mm (12 inches) forward of the bottom edge of the door opening, and a horizontal plane 1,145 mm (45 inches) above the floor of the bus * * *

The restricted space adopted for over 4,536 kg GVWR school buses is the same as NPRM's proposed size of the parallelepiped used to measure the space where wheelchair securement anchorages would not be placed, that was proposed for all school buses. In the final rule, for school buses with a GVWR of 4,536 kg or less, the restricted space is

> bounded by longitudinal vertical planes tangent to the left and right sides of the [rear] door opening, a transverse vertical plane 150 mm (6 inches) forward of the bottom edge of the door opening, and a horizontal plane 1,145 mm (45 inches) above the floor of the bus * * *

NHTSA adopted the separate definitions of restricted space for different sized school buses to minimize the number of wheelchair and nonwheelchair seating positions that would be lost as a result of this final rule.

4. *Restrictions Do Not Apply to Tracks or Track-Type Devices.* In the final rule, the restricted space where wheelchair securement anchorages shall not be placed, does not apply to tracks or track-type devices that can be used for mounting seats and/or for wheelchair securement devices. Although NHTSA could prohibit seats from being adjustable to locations in which they could block an emergency exit (adjustment of seats to such positions are facilitated by tracks), NHTSA has decided to mitigate any potential seat configurations that may block access to the emergency exit door by the use of warning labels. We believe that communities and school bus operators will do the right thing if they are given appropriate warnings.

5. *Warning Labels For Emergency Exit Doors and Emergency Exit Windows.* In the final rule, NHTSA specifies that on the inside surface of each school bus, there shall be a label directly beneath or above each ''Emergency Door'' or ''Emergency Exit'' designation for an emergency exit door or window. The label shall state, in letters at least 25 mm (one inch) high, the words ''DO NOT BLOCK'' in a color that contrasts with the background of the label. Although proposed regulatory text for the label was not proposed in the NPRM, in the NPRM, NHTSA raised the possibility that warning labels of some sort would be specified in the final rule.

In response to the notice of proposed rulemaking, NHTSA received comments from American Transportation Corporation (AmTran), the Illinois Department of Transportation (IDOT), the National Association of State Directors of Pupil Transportation Services (NASDPTS), the National School Transportation Association (NSTA), and Thomas Built Buses, Inc. In the following sections are set forth the public comments, and NHTSA's response to them.

B. School Bus Wheelchair Anchorages at Present

No commenter provided information on the number of school buses that are currently manufactured with wheelchair anchorages that would make it possible to secure a wheelchair in a location where it would block access to an emergency exit door. The two school bus manufacturers, AmTran and Thomas Built, commented on wheelchair anchorages in their school buses. AmTran stated that when it locates wheelchair anchorages near the side emergency exit door, it provides a minimum dedicated aisle of at least 305 mm (12 inches). However, if buses are ordered with full length tracks on which seats can be moved, AmTran cannot prevent the school bus user from removing the flip seat located at the emergency door and securing a wheelchair in its place. AmTran further stated that if the track did not pass in front of the emergency door, or up the aisle of the emergency door, seating capacity would be reduced in school buses that do not have wheelchair locations.

Thomas Built stated that its current practice is to allow a 305 mm (12 inches) clear aisle to side emergency access doors, even though ''the specification'' does not require it. Thomas stated that some school buses are being designed such that when wheelchairs are secured, they can hinder access to side emergency exit doors. Thomas Built stated that providing the 305 mm (12 inches) clear aisle places Thomas Built's products at a disadvantage to competitors that do not provide the clear aisle, and therefore have buses with greater seating capacity. Thomas stated that the present Standard No. 217 requirement for a 305 mm (12 inches) clear aisle to the side emergency exit door should result in equal accessibility to the exit in the event a wheelchair is placed at that location.

IDOT stated that school buses manufactured for use in Illinois may have wheelchair securement anchorages located in the center aisle, usually towards the front of the bus. IDOT has standards for bus safety inspection to ensure that there is a minimum 305 mm (12 inches) center aisle opening but noted that the buses are empty when inspected. IDOT standards also allow for interior modifications to school buses in order to meet the needs of any special education student. The school bus owner must declare that the modifications were made pursuant to a child's Individualized Education Program (IEP). IDOT did not state whether any school bus modifications

made pursuant to an IEP resulted in wheelchairs being located in such a way as to block access to emergency exit doors.

NHTSA is concerned about the possibility of wheelchairs blocking access to side exit doors in school buses that have track seating systems. Easily adjustable seats that glide on tracks can result in non-wheelchair seats located in such a way as to block access to emergency exit doors. Because the configuration of the seats will be determined by the user, not the school bus manufacturer, NHTSA cannot specify how the non-wheelchair seats must be placed, or prohibit placement of the seats in such a fashion that access to any emergency exit door is blocked. However, NHTSA has authority to prohibit the tracks from running through the side emergency exit aisle. In this final rule, NHTSA is not exercising that authority. Instead, we believe we can address potential seat configurations that may block access to the emergency exit door by requiring school bus manufacturers to place a warning label stating: ''DO NOT BLOCK'' in 25 mm (one inch) high letters to be located just beneath or above the emergency exit label on school bus emergency exit doors or windows. The warning label issue is more fully discussed in this final rule in Section F, ''Warning Labels Instead of Limitations on Anchorage Locations.'' NHTSA will revisit this decision if the warning labels are not effective.

C. Effectiveness of Regulatory Text in Limiting the Location of Anchorages so as To Prevent the Positioning of Wheelchairs Where They Could Block Emergency Exit Doors

The public commenters that addressed this issue stated that the regulatory text proposed in the NPRM would prevent wheelchair securement anchorages from being installed in locations that would make it possible to position wheelchairs where they would block emergency exit doors. Thomas Built stated that the proposed regulatory language would achieve the desired result of preventing wheelchair securement anchorages and devices and wheelchairs from being positioned so that they block access to the side emergency exit door. Thomas Built recommended that additional references to ''any exit'' or ''each emergency exit'' be amended to ''emergency exit door'' to make it explicit that the requirements apply to emergency exit doors only, and not to all emergency exits.

AmTran stated that NHTSA's proposal to prohibit placement of any anchorage within 635 mm (25 inches) on either side from the center of the school bus aisle would not necessarily prevent the wheelchair from being secured adjacent to the emergency door. AmTran went on to state that there are different types of anchorages used to secure wheelchairs and that some of the anchorages could be placed as proposed in the NPRM and allow the securement of the wheelchair adjacent to the emergency exit. NHTSA believes that what AmTran refers to is that the only type of wheelchair securement device offered by school bus manufacturers is a 4-point tie-down, and the designs of the different types of 4-point tie-downs offered may still result in wheelchair placement that blocks access to the side emergency exit door.

AmTran noted that the current aisle width requirement to the emergency door is 305 mm (12 inches). AmTran stated that the NPRM would add 965 mm (38 inches) to the spacing for school buses equipped with wheelchair securement devices. AmTran suggested adding an ''informational requirement'' for a warning stating: ''Warning: It is unsafe to secure a wheelchair in a location where the wheelchair blocks the aisle to an exit'' would help prevent locating a wheelchair adjacent to the emergency door. In addition to the warning, AmTran suggested marking the inside of the bus wall and emergency exit door with a zone to indicate where wheelchairs and wheelchair ties (straps) cannot be placed.

The National Association of State Directors of Pupil Transportation Services (NASDPTS) stated its belief that the proposed regulatory text at S5.4.3 would ensure that a wheelchair location would not block access to rear and side emergency exit doors. NASDPTS asked that similar regulatory text be adopted to prohibit wheelchair locations that would block access to emergency exit windows and roof exits, and urged the agency to seek comment on including roof exits and emergency exit windows in this rulemaking. NASDPTS stated that if able-bodied students needed to use a school bus emergency exit window, a wheelchair that partially or completely blocks access to the window creates risks to both the students attempting to leave through the window and to the student in the wheelchair. NASDPTS stated that since emergency roof hatches are most likely to be used in the event the school bus has rolled on its side, the proximity of a wheelchair location to the emergency exit roof hatch appears to have potentially fewer negative safety consequences.

NASDPTS also stated that it may not be possible to prohibit the placement of wheelchairs so that they do not block access to emergency exit doors and emergency exit windows in small (under 4,536 kg (10,000 lb)) Type A school buses. As an example, NASDPTS noted that prohibiting wheel chair anchorages near emergency exit doors and emergency exit windows on a small school bus equipped with optional (not required by Standard No. 217) emergency exit windows on each side would make the vehicle unusable for transporting children in wheelchairs. NASDPTS stated that it does not have data on the degree to which small school buses are equipped with more emergency exits than required by Standard No. 217. IDOT stated its belief that the proposed regulatory text would probably Aachieve the desired result.'' IDOT stated its preference that the amendment prohibit securement anchorages and devices from being located in any part of the center aisle, extending the entire length of the vehicle.

In this final rule, NHTSA is not amending the regulatory text to prohibit wheelchair anchorages from being placed in front of emergency exit windows, and is not prohibiting securement anchorages and devices from being located in any part of the center aisle. Regarding access to emergency exit windows, Standard No. 217 presently does not specify a clear aisle requirement for emergency exit windows in buses or school buses, but does specify a clearance requirement for emergency exit opening to allow for unobstructed passage of a 50 cm by 33 cm ellipsoid. (See S5.4.1.) We further note that since location of wheelchair securement anchorages (as long as they are not in the restricted zones specified in this final rule) may be in the front, center or rear of the school bus, it would be difficult to restrict locations of wheelchair securement anchorages with respect to the location of side emergency exit windows. For this reason, as explained in Section F., ''Warning Labels Instead of Limitations on Anchorage Locations,'' we are requiring warning labels to not block emergency exit windows.

The figures specified in the final rule designate the zones (as suggested by AmTran) in which wheelchair securement anchorages should not be placed. Nothing in this final rule prevents a school bus manufacturer from marking school bus interiors to designate zones where wheelchair anchorages or wheelchairs should not be placed.

D. Can the Regulatory Text Limiting the Location of Anchorages Be More Narrowly Crafted, and Still Prevent Wheelchairs From Being Positioned Where They Could Block Emergency Exit Doors?

NASDPTS, Thomas Built, and IDOT commented that S5.4.3 should be altered to clearly state that a 305 mm (12 inches) clear aisle is required for access to the side emergency door and that no part of a wheelchair or wheelchair securement can extend into the 305 mm clear aisle. The commenters stated their belief that their suggestion offers the most flexibility and achieves the objective of not having wheelchairs secured where they would block access to an emergency exit door.

NASDPTS commented that the proposed regulatory language for S5.4.3.(1) would make it impossible to have more than one wheelchair location forward of the rear wheel-well on all but the largest (4,536 kg (10,000 lb) and over gross vehicle weight rating) Type C and D school buses and that such reductions in wheelchair locations would affect the usefulness of the school buses. NASDPTS further stated that the NPRM's proposal to prohibit placement of wheelchair anchorages within 635 mm (25 inches) from each side of the centerline of side emergency exits on school buses (which would result in a 1270 mm (50 inches) wide aisle to side emergency exit doors) could adversely affect the ability of school buses to transport children in wheelchairs, even more so than the proposed 430 mm (17 inches) from the centerline.

NADPTS added that, theoretically, the alternative regulatory language could be interpreted in such a way as to encourage States to develop school bus specifications that include narrower emergency exit doors. NASDPTS stated its belief that for school bus evacuation, the width of the aisle space leading to the emergency exit door is the true controlling factor in the effectiveness of emergency exit doors. NASDPTS stated that it is not aware of any data correlating the width of the emergency exit door and the speed of a school bus evacuation, e.g., that a 760 mm (30 inches) wide door results in a faster evacuation than a 610 mm (24 inches) wide door. NASDPTS's implicit point was that, when leaving through either the 760 mm or the 610 mm wide door, only one child at a time can go through.

NHTSA concurs with the public comments that 635 mm (25 inches) as measured from the center of the required side emergency exit door aisle is too design restrictive because it would unduly restrict the capacity of the school bus. NHTSA believes that 305 mm (12 inches) clearance on either side of the center of the aisle would provide adequate clearance to ensure that wheelchair anchors are not placed so that a wheelchair would block access to side emergency exit doors. The 305 mm (12 inches) clearance is adopted because NHTSA believes that the approximately twelve inches of space (in addition to the already specified 305 mm (12 inches) clearance in S5.4.2.1(a)(2)(i)) is needed to accommodate items such as extended foot rests or other parts that extend from the wheelchair.

E. Effect of the Final Rule on School Bus Seating Capacity

AmTran, NASDPTS, and Thomas Built stated that if the proposal were made final, seating capacity (for non-wheelchair school bus seats) would be reduced by at least two, and possibly three positions. AmTran commented that for larger school buses at the ''maximum overall length,'' the loss of non-wheelchair seating capacity could be as many as six positions. Thomas stated that the intent of the wheelchair restriction is best achieved by the requirement of a clear aisle to the door. AmTran commented that if only a warning label were used and the aisle width for the emergency door aisle were kept at 305 mm (12 inches), the seating capacity would not change. NASDPTS stated that it does not have quantitative information on the potential loss of school bus seating capacity due to the proposed rulemaking, but stated the view that it appears the real-world impact is most likely less (than what the estimated seating capacity loss would be), since not all school buses are operated at full capacity on every trip.

As previously stated, in this final rule, NHTSA is adopting the 305 mm (12 inches) clearance requirements for wheelchair anchorages next to side emergency exit doors on school buses. NHTSA arrived at its decision after weighing the potentially catastrophic effect of a blocked access to a side emergency exit door versus the loss of about two (regular, non-wheelchair) seating positions per school bus and has concluded that the 305 mm (12 inches) clearance requirement will meet the need for safety.

F. Warning Labels Instead of Limitations on Anchorage Locations

None of the public commenters said that warning labels alone, in lieu of restrictions on the placement of wheelchair securement anchorages, would meet the need for safety. AmTran, IDOT, NASDPTS, NSTA, and Thomas Built argued that the agency should require both wheelchair securement location restrictions imposed by the regulatory text of Standard No. 217, and warning labels. Some commenters said that the adjustable floor track designs make it easy and convenient to reconfigure the seating locations within a school bus, and a warning label not to place seats on certain portions of the floor track would appear to have some safety benefit.

Commenters noted that some designs of school buses have mounting tracks that run the entire length of the school bus. The mounting tracks make it possible to easily change a school bus configuration to install either a school bus seat or a wheelchair anchorage or securement device. AmTran stated its belief that an informational requirement would help prevent locating a wheelchair adjacent to the emergency door. AmTran and Thomas Built commented that a warning label should state that track mounted seats should not be routed through the clear aisle of a side emergency door. NASDPTS stated that the location of the warning labels is an important issue since it would most likely be a school bus mechanic who changes the seating positions on school buses with adjustable floor tracks. NASDPTS stated that it is not clear where to place a label so that the mechanic would see it, and suggested several options. However, NASDPTS suggested that the warning/information labels not be placed at the emergency exit itself, to ensure that critical information specified in Standard No. 217 on emergency exit operation is not confused by the presence of other warning/information labels.

NASDPTS further stated it is not unusual for a school bus to be retrofitted with a wheelchair location years after the bus was first purchased. In such cases, information on where wheelchair anchorages should not be located would be beneficial to the retrofitter. NASDPTS said that a wheelchair securement anchorage system is an item of motor vehicle safety equipment. Accordingly, the commenter said, it appears that NHTSA has authority to specify a safety warning/information label to be provided with new wheelchair securement anchorage equipment, including when the equipment is retrofitted to an existing school bus. NASDPTS went on to state that if NHTSA were to require a warning label, the label should refer to the wheelchair and its securement devices/anchorages, not just the wheelchair. NASDPTS suggested the warning could read: ''WARNING: It is unsafe to secure

a wheelchair in a location where the wheelchair and/or its securement devices/anchorages block access to the emergency exit.''

NHTSA agrees with the commenters that warning labels alone should not be used in lieu of regulatory restrictions on the locations of wheelchair securement anchorages. NHTSA also agrees with NASDPTS that the warning labels or information could be required to be provided with aftermarket wheelchair securement equipment. NHTSA further notes that nothing in this final rule prevents equipment manufacturers from voluntarily providing warnings, tailored for specific motor vehicle types, about where the wheelchair anchorage or securement locations should or should not be placed. However, NHTSA did not, in the NPRM, raise the possibility of requiring labels on wheelchair securement equipment. Thus, imposing a labeling requirement on manufacturers of wheelchair securement equipment is outside the scope of this rulemaking.

G. Adopting Limitations on Anchorage Locations and Requiring Warning Labels

As noted above, all commenters stated that warning labels alone will not accomplish the goals of this rulemaking. NHTSA agrees. However, in conjunction with regulatory requirements that prohibit wheelchair securement anchorages in certain locations on school buses, a label will serve to remind users of school buses with adjustable seat tracks and aftermarket retrofitters that access to emergency exit doors should not be blocked by wheelchairs or other items.

Earlier in this notice, NHTSA has discussed its concern about track seating that may result in non-wheelchair seats being placed where they block access to an emergency exit door. While NHTSA has authority to regulate where and how the track seating is installed in new school buses, we have determined that requiring a label to specify clear aisle access would meet the need for safety at this time. We believe that people will heed this warning label. NHTSA encourages the States, schools, school districts, and other school bus users to ensure that seats on tracks are not adjusted in such a way that clear access to the emergency exit door is blocked. At the same time, NHTSA believes that in school buses, the warning label specified in this final rule will caution against installing track seat configurations that permit blocking access to an emergency exit door.

NHTSA notes that none of the commenters suggested a location for the warning label. However, NASDPTS argued that the warning label should not be placed on the emergency exit door because it is important to ensure that the critical information on how to operate the emergency exit is not confused with the presence of other warning/information labels. NHTSA agrees that warning labels should not be placed near the area that provides the operating instructions for emergency exits. In this final rule, NHTSA specifies the words: ''DO NOT BLOCK'' in 25 mm (one inch) high letters to be located just beneath or above the already required emergency exit label that is 50 mm (two inches) high on the school bus emergency exit doors and windows. NHTSA believes that a label stating that emergency exits should not be blocked will inform school bus users and aftermarket wheelchair securement retrofitters that emergency exits are for egress in an emergency and that access should never be blocked with wheel chairs or other items, such as book bags, knapsacks, sports equipment or band equipment.

Regarding a warning label specifically for adjustable floor track designs, NASDPTS suggested that since it would likely be a school bus mechanic who changes the seating locations on school buses with adjustable floor tracks, a label could be placed in an area such as the floor area where the adjustable tracks are near emergency exits, where the mechanic would see it. NHTSA is not requiring such a label. The agency believes that the ''DO NOT BLOCK'' label adopted in this final rule will serve the same general function as a special warning label on the floor near adjustable tracks near emergency exit doors. However, NHTSA notes that nothing in this final rule prevents school bus manufacturers or school bus users from voluntarily placing such warning labels on the floor near the adjustable tracks.

H. Application to Buses Other Than School Buses

AmTran, NASDPTS, and Thomas Built stated that all buses should be required to meet any new restrictions on wheelchair securement anchorage locations. NASDPTS noted that many of the school bus federal motor vehicle safety standards would have potential safety benefits if applied to other types of buses. NASDPTS commented that the application of the proposed regulatory language to other bus types may not be possible since most, if not all, other bus types only use emergency exit windows and roof exits. In many cases, every bus side window is designated as an emergency exit. NASDPTS concluded that if NHTSA proposed to prohibit the location of a wheelchair securement anchorage location within certain distances from emergency exits (including emergency exit windows), the result might be that it would become impracticable or even impossible to have a wheelchair location on some bus types.

NHTSA agrees with NASDPTS that, in buses other than school buses, windows and roof exits generally serve as emergency exits. For the reasons stated earlier, NHTSA does not believe that the restrictions on wheelchair securement anchorage locations near emergency exit doors should be imposed on wheelchair securement anchorage locations near emergency exit windows. No commenter provided information on how this rulemaking action would apply to buses other than school buses. NHTSA is not aware that buses other than school buses are equipped with wheelchair securement anchorages that are placed or can be placed in locations that will result in blocking access to emergency exit doors. For these reasons, NHTSA is not applying the amendments made in this rulemaking to buses other than school buses.

V. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

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

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

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

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

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

We have considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and

procedures. This rule is not considered a significant regulatory action under section 3(f) of the Executive Order 12866, ''Regulatory Planning and Review.'' Consequently, it was not reviewed by the Office of Management and Budget. The rulemaking action is also not considered to be significant under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

For the following reasons, NHTSA believes that this final rule will not have any cost effects on school bus manufacturers. When it amended Standard No. 222 to specify requirements for wheelchair securement anchorages and devices, NHTSA did not envision that the anchorages would be placed so that wheelchair securement anchorages and devices or secured wheelchairs would block access to any exit door. In analyzing the potential impacts of that rulemaking, NHTSA anticipated that vehicle manufacturers would, if necessary, remove seats to make room for securing wheelchairs in a forward-facing position and that, if necessary, additional buses would be purchased to offset the lost seating capacity. To the extent that vehicle manufacturers have not removed any seats and have instead installed wheelchair securement anchorages and devices in locations where the securing of wheelchairs will result in the blocking of exits, the agency overestimated the costs of that earlier rulemaking. If securement devices were being so installed, the impact of adopting the amendments proposed in this notice would be to conform vehicle manufacturer practices to the assumptions made in the analysis of that earlier rulemaking.

Because the economic impacts of this final rule are so minimal, no further regulatory evaluation is required.

B. Executive Order 13132 (Federalism)

Executive Order 13132 requires us to develop an accountable process to ensure Ameaningful 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, we may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or unless we consult with State and local governments, or unless we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation with Federalism implications and that preempts State law unless we consult with State and local officials early in the process of developing the proposed regulation.

This final rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of Section 6 of the Executive Order do not apply to this final rule.

C. Executive Order 13045 (Economically Significant Rules Disproportionately Affecting Children

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

This rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866. It does involve decisions based on health risks that disproportionately affect children on schoolbuses. However, this rulemaking serves to reduce, rather than increase, that risk.

D. Executive Order 12778 (Civil Justice Reform)

Pursuant to Executive Order 12778, ''Civil Justice Reform,'' we have considered whether this final rule would have any retroactive effect. We conclude that it would not have such an effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

E. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

The Administrator has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that, as noted immediately above, NHTSA is not aware that any school bus manufacturer, or any small school bus manufacturer, is presently manufacturing school buses with wheelchair securement anchorages or devices that may result in blocking access to an emergency exit, or that any small school or school district has school buses with wheelchair securement anchorages or devices that may result in blocking access to an emergency door. Accordingly, the agency believes that this final rule will not affect the costs of the manufacturers of school buses considered to be small business entities. A small manufacturer could meet the new requirements by placing a wheelchair securement anchorage or device in a location other than in an exit aisle. Changing the placement of a wheelchair securement anchorage or device in this fashion might necessitate the removal of a seat in some cases. In those instances, there

will be a small net loss of passenger capacity.

The Regulatory Flexibility Act does not, therefore, require a regulatory flexibility analysis.

F. National Environmental Policy Act

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

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This final rule does not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained. The term ''collection of information'' does not include the Apublic disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public.'' (*See* 5 CFR 1320.3(c)(2).) Since NHTSA is specifying the exact language with which schoolbus manufacturers must label their emergency exit doors and emergency exit windows, the labels are not collections of information and do not need clearance from OMB.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in our regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

After conducting a search of available sources, we have determined that there are no available and applicable voluntary consensus standards that we can use in this final rule. We have searched the SAE's Recommended Practices applicable to buses, and have not found any standards prohibiting placement of wheelchairs in front of emergency exit doors. We have also reviewed the National Standards for School Buses and School Bus Operations (NSSBSBO) (1995 Revised Edition). The NSSBSBO includes a subsection under ''Standards for Specially Equipped School Buses'' called ''Securement and Restraint System for Wheelchair/Mobility Aid and Occupant.'' Paragraph 1.k. of this provision (on page 61) states: ''The securement and restraint system shall be located and installed such that when an occupied wheelchair/mobility aid is secured, it does not block access to the lift door.'' Since this provision does not address blocking access to an emergency exit, we have decided not to use it in the rulemaking at issue.

I. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if we publish with the final rule an explanation why that alternative was not adopted.

This final rule would not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

J. Plain Language

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

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make this rulemaking easier to understand?

In the March 5, 1999 (64 FR 10604)(DOT Docket No. NHTSA–99–5157) NPRM, we raised the plain language issues stated above. None of the public commenters addressed plain language concerns in their NPRM comments.

K. Regulation Identifier Number (RIN)

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the Federal Motor Vehicle Safety Standards (49 CFR part 571), are amended as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

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

2. Section 571.217 is amended by adding in S4, in alphabetical order, the definitions of ''wheelchair,'' ''wheelchair securement anchorage'', and ''wheelchair securement device'' , by revising S5.4.2.1(a)(1) by adding S5.4.3 and S5.5.3(d) to read as follows:

§ 571.217 Standard No. 217; Bus emergency exits and window retention and release.

* * * * *

S4. * * *

Wheelchair means a wheeled seat frame for the support and conveyance of a physically disabled person, comprising at least a frame, seat, and wheels.

Wheelchair securement anchorage means the provision for transferring wheelchair securement device loads to the vehicle structure.

Wheelchair securement device means a strap, webbing or other device used for securing a wheelchair to the school bus, including all necessary buckles and other fasteners.

* * * * *

S5.4.2.1 * * *

(a) * * *

(1) In the case of a rear emergency exit door, an opening large enough to permit unobstructed passage into the bus of a rectangular parallelepiped 1,145 millimeters (45 inches) high, 610 millimeters (24 inches) wide, and 305 millimeters (12 inches) deep, keeping the 1,145 millimeter (45 inch) dimension vertical, the 610 (24 inch) millimeter dimension parallel to the opening, and the lower surface in contact with the floor of the bus at all times, until the bottom edge of the rearmost surface of the parallelepiped is tangent to the plane of the door opening; and

* * * * *

S5.4.3 Restriction on wheelchair anchorage location.

S5.4.3.1 Except as provided in paragraph S5.4.3.2 of this section, no portion of a wheelchair securement anchorage shall be located in a school bus such that:

(a) In the case of side emergency exit doors, any portion of the wheelchair securement anchorage is within the space bounded by the interior side wall and emergency exit door opening, transverse vertical planes 305 mm (12 inches) forward and rearward of the center of any side emergency exit door restricted area, and a longitudinal vertical plane through the longitudinal centerline of the school bus, as shown in Figure 6A and Figure 6B.

(b) In the case of rear emergency exit doors in school buses with a gross vehicle weight rating greater than 4,536 kg (10,000 lb), any portion of the wheelchair securement anchorage is within the space bounded by longitudinal vertical planes tangent to the left and right sides of the door opening, a transverse vertical plane 305 mm (12 inches) forward of the bottom edge of the door opening, and a horizontal plane 1,145 mm (45 inches) above the floor of the bus, as shown in Figure 6C and Figure 6D.

(c) In the case of rear emergency exit doors in school buses with a gross vehicle weight rating of 4,536 kg (10,000 lb) or less, any portion of the wheelchair securement anchorage is within the space bounded by longitudinal vertical planes tangent to the left and right sides of the door opening, a transverse vertical plane 150 mm (6 inches) forward of the bottom edge of the door opening, and a horizontal plane 1,145 mm (45 inches) above the floor of the bus, as shown in Figure 6C and Figure 6D.

S5.4.3.2 The restriction in S5.4.3.1(a) of this section does not apply to tracks or track-type devices that are used for mounting seats and/or for wheelchair securement devices.

* * * * *

S5.5.3 *School Bus.*

* * * * *

(d) On the inside surface of each school bus, there shall be a label directly beneath or above each ''Emergency Door'' or ''Emergency Exit'' designation required by paragraph (a) of S5.5.3 of this standard for an emergency exit door or window. The label shall state, in letters at least 25 mm (one inch) high, the words ''DO NOT BLOCK'' in a color that contrasts with the background of the label.

* * * * *

3. Section 571.217 is amended by adding after Figure 5C, Figure 6A, Figure 6B, Figure 6C, and Figure 6D, to read as follows:

BILLING CODE 4910–59–P

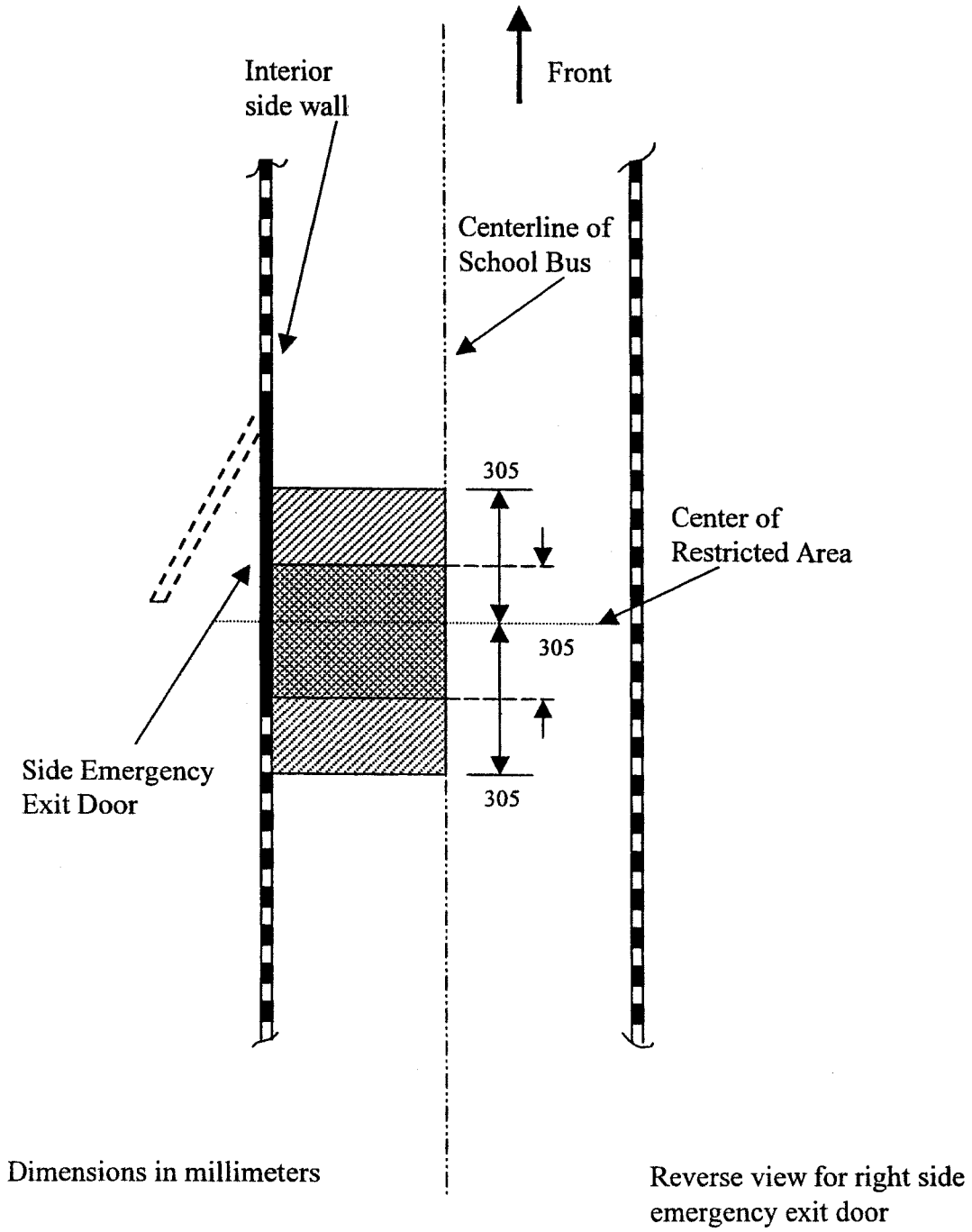


Figure 6A. Side Emergency Exit – No Wheelchair Anchorages within the shaded region

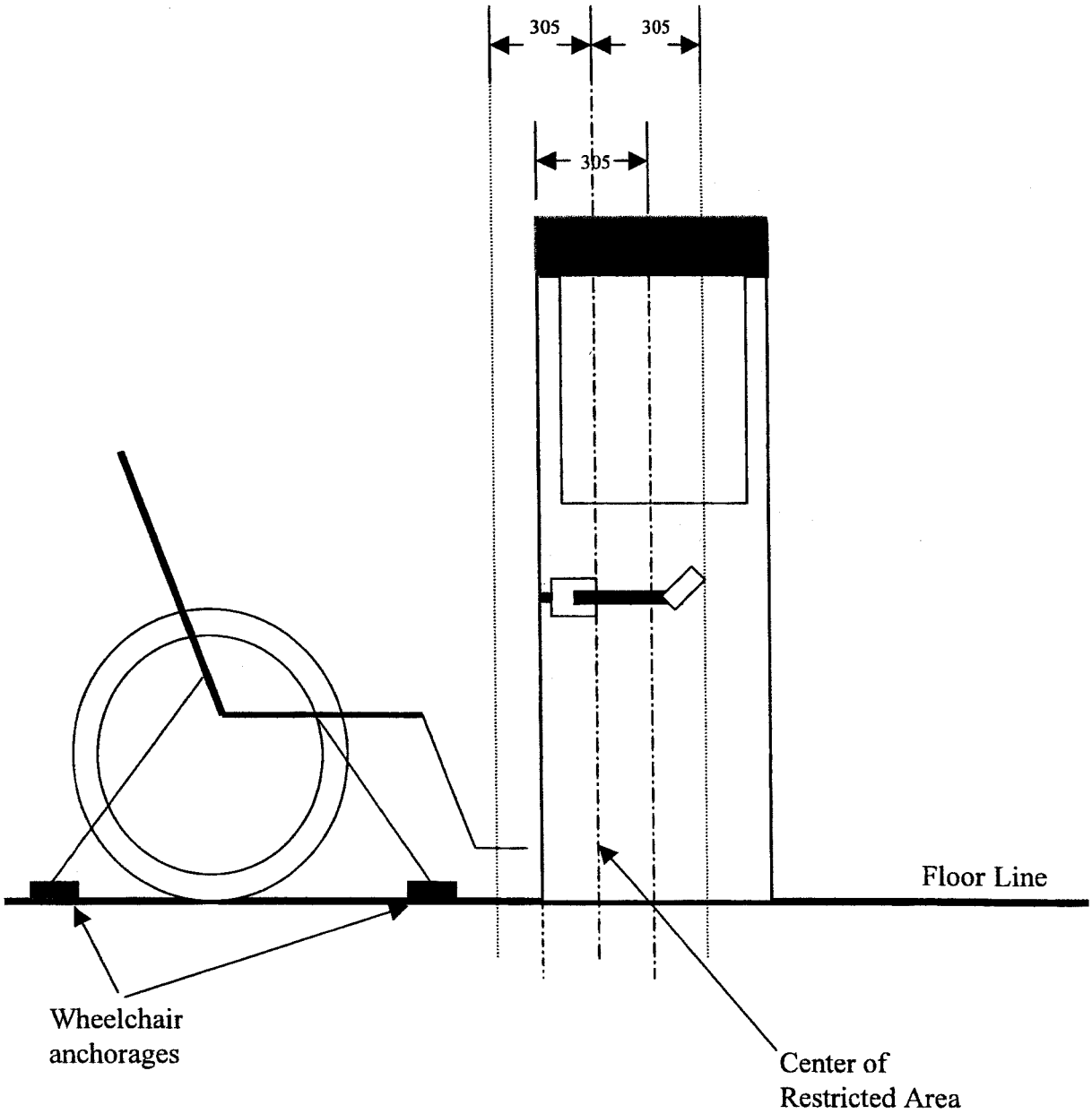
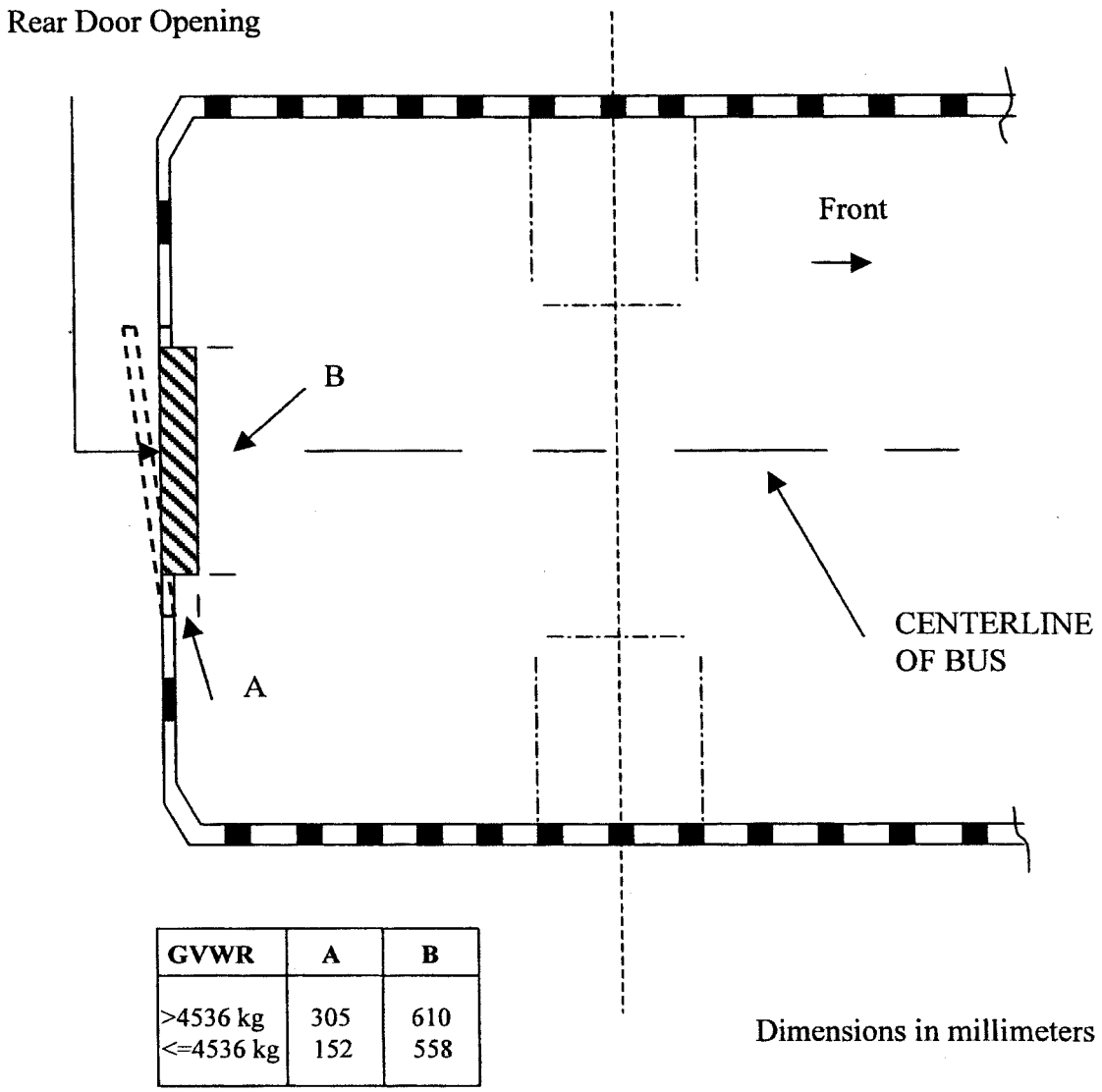
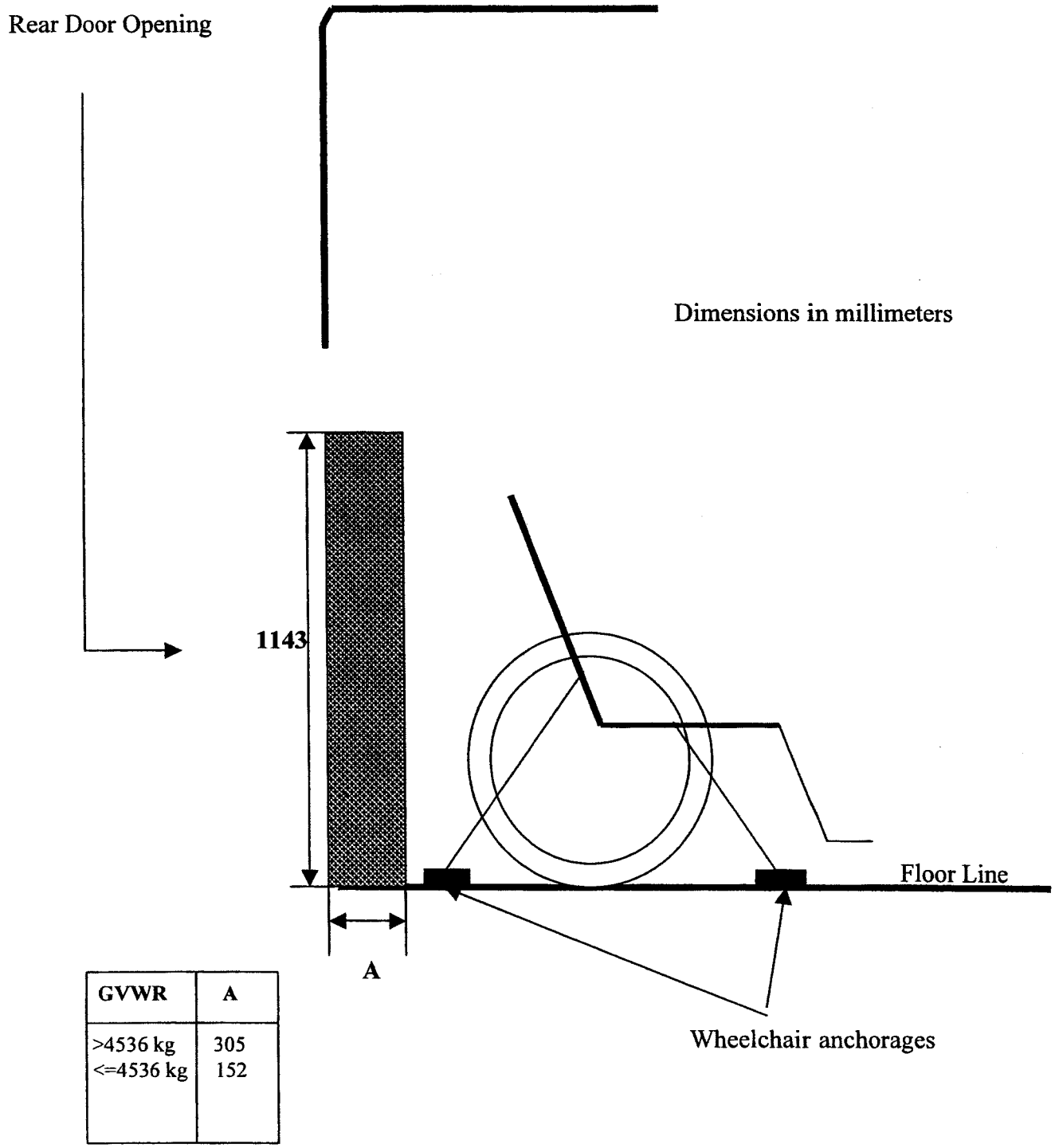


Figure 6B. Side Emergency Exit – No Wheelchair Anchorages within the indicated region



GVWR	A	B
>4536 kg	305	610
<=4536 kg	152	558

Figure 6C. Rear Door Emergency Exit - No Wheelchair Anchorages within the shaded region



GVWR	A
>4536 kg	305
<=4536 kg	152

Figure 6 D. Rear Door Emergency Exit - No Wheelchair Anchorages within the shaded region

Issued on: April 16, 2002.

Jeffrey W. Runge,

Administrator.

[FR Doc. 02–9676 Filed 4–18–02; 8:45 am]

BILLING CODE 4910–59–C

Proposed Rules

Federal Register
Vol. 67, No. 76
Friday, April 19, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[Doc. # CN–02–001]

RIN 0581–AC04

Revision of User Fees for 2002 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to raise user fees for cotton producers for 2002 crop cotton classification services under the Cotton Statistics and Estimates Act in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 2001 user fee for this classification service was $1.35 per bale. This proposal would raise the fee for the 2002 crop to $1.45 per bale. The proposed fee and the existing reserve are sufficient to cover the costs of providing classification services, including costs for administration and supervision. Also because of insufficient demand, computer punch cards would be eliminated as an optional method of disseminating classing data to producers.

DATES: Comments must be received on or before May 6, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to Norma McDill, Deputy Administrator, Cotton Program, AMS, USDA, STOP 0224, 1400 Independence Avenue, SW, Washington, DC 20250–0224. Comments should be submitted in triplicate. Comments may also be submitted electronically to: *cottoncomments@usda.gov.* All comments should reference the docket number and the date and page of this issue of the **Federal Register**. All comments received will be available for public inspection at Cotton Program, AMS, USDA, Room 2641-South, 1400 Independence Ave., SW, Washington, DC during regular business hours. A copy of this notice may be found at: *www.ams.usda.gov/cotton/rulemaking.htm.*

FOR FURTHER INFORMATION CONTACT: Norma McDill, Deputy Administrator, Cotton Program, AMS, USDA, Room 2641–S, STOP 0224, 1400 Independence Avenue, SW, Washington, DC 20250–0224. Telephone (202) 720–2145, facsimile (202) 690–1718, or e-mail norma.mcdill@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866; and, therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are an estimated 35,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR § 121.201). The increase above the 2001 crop level as stated will not significantly affect small businesses as defined in the RFA because:

(1) The fee increase represents a very small portion of the cost-per-unit currently borne by those entities utilizing the services. (The 2001 user fee for classification services was $1.35 per bale; the fee for the 2002 crop would be increased to $1.45 per bale; the 2002 crop is estimated at 16,504,065 bales).

(2) The fee for services will not affect competition in the marketplace; and

(3) The use of classification services is voluntary. For the 2001 crop, 20,100,000 bales were produced; and, virtually all of these bales were voluntarily submitted by growers for the classification service.

(4) Based on the average price paid to growers for cotton from the 2000 crop of 49.8 cents per pound, 500 pound bales of cotton are worth an average of $249 each. The proposed user fee for classification services, $1.45 per bale, is less than one percent of the value of an average bale of cotton.

(5) Due to insufficient demand, computer punch cards would be eliminated as an optional method of disseminating classing data to producers.

Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in the provisions to be amended by this proposed rule have been previously approved by OMB and were assigned OMB control number 0581–0009 under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for High Volume Instrument (HVI) classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was $1.35 per bale during the 2001 harvest season as determined by using the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The fees cover salaries, costs of equipment and supplies, and other overhead costs, including costs for administration, and supervision. It is anticipated that the proposed changes, if adopted, would be made effective July

1, 2002, as provided by the Cotton Statistics and Estimates Act.

This proposed rule establishes the user fee charged to producers for HVI classification at $1.45 per bale during the 2002 harvest season.

Public Law 102–237 amended the formula in the Uniform Cotton Classing Fees Act of 1987 for establishing the producer's classification fee so that the producer's fee is based on the prevailing method of classification requested by producers during the previous year. HVI classing was the prevailing method of cotton classification requested by producers in 2001. Therefore, the 2002 producer's user fee for classification service is based on the 2001 base fee for HVI classification.

The fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The 2001 base fee for HVI classification exclusive of adjustments, as provided by the Act, was $2.22 per bale. An increase of 2.51 percent, or 6 cents per bale increase due to the implicit price deflator of the gross domestic product added to the $2.22 would result in a 2002 base fee of $2.28 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, gross national product has been replaced by gross *domestic* product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 2002 crop is estimated at 16,504,065 bales. The 2002 base fee was decreased 15 percent based on the estimated number of bales to be classed (1 percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum adjustment of 15 percent). This percentage factor amounts to a 35 cents per bale reduction and was subtracted from the 2002 base fee of $2.28 per bale, resulting in a fee of $1.93 per bale.

With a fee of $1.93 per bale, the projected operating reserve would be 51.3 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of $1.93 must be reduced by 48 cents per bale, to $1.45 per bale, to provide an ending accumulated operating reserve for the fiscal year of 25 percent of the projected cost of operating the program. This would establish the 2002 season fee at $1.45 per bale.

Accordingly, § 28.909, paragraph (b) would be revised to reflect the increase of the HVI classification fee from $1.35 to $1.45 per bale.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909(c).

Growers or their designated agents receiving classification data would continue to incur no additional fees if only one method of receiving classification data was requested. The fee for each additional method of receiving classification data in § 28.910 would remain at 5 cents per bale. Computer punched cards would be eliminated as an optional method of disseminating classing data to producers for the 2002 and subsequent crops because there is an insufficient demand for the use of this method. Accordingly, this change would be reflected in § 28.910(a). The fee in § 28.910(b) for an owner receiving classification data from the central database would remain at 5 cents per bale, and the minimum charge of $5.00 for services provided per monthly billing period would remain the same. The provisions of § 28.910(c) concerning the fee for new classification memoranda issued from the central database for the business convenience of an owner without reclassification of the cotton will remain the same.

The fee for review classification in § 28.911 would be increased from $1.35 to $1.45 per bale. The fee for returning samples after classification in § 28.911 would remain at 40 cents per sample.

A fifteen-day comment period is provided for public comments. This period is appropriate because it is anticipated that the proposed changes, if adopted, would be made effective July 1, 2002, as provided by the Cotton Statistics and Estimates Act.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and record keeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR Part 28 is proposed to be amended as follows:

PART 28—[AMENDED]

1. The authority citation for 7 CFR Part 28, Subpart D, continues to read as follows:

Authority: 7 U.S.C. 471–476.

2. In § 28.909, paragraph (b) is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $1.45 per bale.

* * * * *

3. In § 28.910, paragraph (a)(3) is removed:

* * * * *

4. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is $1.45 per bale.

* * * * *

Dated: April 16, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–9784 Filed 4–17–02; 1:29 pm]

BILLING CODE 3410–02–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

RIN 3038–AB89

Registration of Intermediaries

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed Rules.

SUMMARY: The Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') is proposing amendments to Part 3 of its rules, which governs registration of intermediaries in the futures industry. These amendments are necessary to facilitate the change from the current paper-based registration system to online registration. It is expected that the online registration system will provide applicants with a more streamlined process for registering, resulting in less redundancy and quicker processing of applications by the National Futures Association. The proposed amendments would permit a floor broker that receives a temporary license to act in the capacity of a fully registered floor broker, and an applicant for registration as an associated person to be granted a temporary license upon filing the Form 8–R and a sponsor's certification, but prior to submission of fingerprints. Several other amendments are technical in nature to accommodate the transfer from a paper-based to an electronic

system and to recognize derivatives transaction execution facilities.

DATES: Comments on the proposed new rule and amendments must be received by May 20, 2002.

ADDRESSES: Comments on the proposed rule should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418–5528, or by e-mail to *secretary@cftc.gov*. Reference should be made to ''Registration.''

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Michael A. Piracci, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission has previously delegated the authority to process applications for registration of intermediaries and floor traders under the Commodity Exchange Act (the ''Act'')[1] to the National Futures Association (''NFA'').[2] NFA has submitted to the Commission, for its approval, pursuant to Section 17(j) of the Act, amendments to NFA registration rules that would require applicants seeking registration under the Act as futures commission merchants (''FCMs''), introducing brokers (''IBs''), commodity pool operators (''CPOs''), commodity trading advisors (''CTAs''), leverage transaction merchants (''LTMs''), associated persons (''APs''), floor brokers (''FBs''), and floor traders (''FT'') to file applications electronically through an online registration system.[3]

Technological advancements have resulted in fundamental changes in the futures industry, as is the case in almost every other industry. The Commission has encouraged and attempted to facilitate the use of electronic technology in the futures industry.[4] The Commission also believes that it must constantly look at ways that technology can better assist the Commission in fulfilling its regulatory mission.[5]

NFA's new online registration system should streamline the registration process and result in a system that is easier to use for applicants, registrants, and regulators. The new system should make it quicker and easier for persons to provide NFA with the required information and enable NFA to process more efficiently this information in determining whether to grant an application for registration, while maintaining most of the features of the current system. Additionally, information on registrants should be more readily accessible by the public, NFA, and the Commission.

II. The Proposed Rule Amendments

A. Additional Categories and Sponsors

As part of the new online registration system, applicants that have a current active status, either as a registrant or as a listed principal, and who seek to add an additional registration category would be required to file a ''short path'' version of the form required for a new applicant. [6] This ''short path'' form would require the applicant to supply only necessary information that is not already in the registration database. For example, if an entity registered as an IB applies to become registered also as a CTA, the entity would complete the ''short path'' Form 7–R, which requires the applicant to select the appropriate categories for which it would be registered and to indicate the category in which it intends to vote on NFA membership matters. Likewise, natural persons currently registered as APs, FBs, FTs, or listed as branch managers or principals that seek to add an additional category would complete a ''short path'' Form 8–R.

The Form 7–R would no longer require an applicant to list principals that are natural persons because when a Form 8–R is filed indicating a principal category, the system will require the appropriate information, including information regarding the sponsor firm. Currently, under Commission Rule 3.10(a)(2)(i),[7] each Form 7–R must be accompanied with a Form 8–R and fingerprints for each natural person who is a principal of the applicant. The rule does not apply to a principal that has a current Form 8–R on file. However, because the necessary information about the firm for whom a natural person is a principal is gathered through the Form 8–R, if a natural person with a current active status seeks to add a principal category or to become a principal of another firm, then it would be necessary for a ''short path'' Form 8–R to be filed.[8] Accordingly, the Commission is proposing to amend Rule 3.10(a)(2)(i) to reflect this change.

Currently, a person who is unconditionally registered as an AP may become associated as an AP with another sponsor if the new sponsor files a Form 3–R with NFA. The Form 3–R must contain a certification signed by each sponsor acknowledging that each sponsor, in addition to being responsible for supervising the AP, is jointly and severally liable for the conduct of the AP. As noted above, under the new online registration system, APs with a current status seeking to add another sponsor would file a ''short path'' Form 8–R, which, similar to the current paper Form 3–R, would require the submission of only that information not already in the database required for adding the applicable sponsor. Accordingly, the Commission is amending Rule 3.12 to reflect the fact that the sponsor must file a Form 8–R instead of the Form 3–R.

Maintaining the requirement that all of the sponsors of the AP sign and file the acknowledgment mandated under the current rule in an electronic environment would require sending the filing via traditional delivery or via a complicated and costly electronic signature system, both resulting in a delay in adding the sponsor. Additionally, the Commission believes it is unnecessary to require the signed acknowledgment where the rule makes clear that a sponsor is responsible for supervising its APs and is liable for

[1] 7 U.S.C. 1 *et seq.* (2000).

[2] *See*, e.g., 58 FR 19657 (Apr. 15, 1993) (floor traders); 51 FR 34490 (Sep. 29, 1986) (floor brokers); 49 FR 39593 (Oct. 9, 1984) (futures commission merchants, commodity pool operators, commodity trading advisors, and associated persons thereof); 48 FR 35158 (Aug. 3, 1983) (introducing brokers and associated persons thereof).

[3] Agricultural trade option merchants as well as applicants for registration as FCMs and IBs pursuant to Section 4f(a)(2) of the Act (notice-registration of securities broker-dealers whose only futures-related activity involves security futures products) will still file paper applications.

[4] For example, the Commission has created a Technology Advisory Committee, see 66 FR 57427 (Nov. 15, 2001); *see also* 65 FR 12466 (Mar. 9, 2000) (adopting new Rule 1.4, which permits the use of electronic signatures in lieu of handwritten signatures where the Act or Commission rules require a customer's signature). Additionally, the Commission had previously authorized NFA to implement a pilot program that allowed certain registrants to enter registration data electronically for APs and branch office managers of these registrants. 55 FR 35925 (Sep. 4, 1990).

[5] For example, the National Association of Securities Dealers, the registered national securities association responsible for processing the registration filings of certain persons required to register with the Securities and Exchange Commission, has required all registration filings to be submitted via the World Wide Web to its Central Registration Depository system since 1999.

[6] Currently, such applicants are required to file a Form 3–R (which is akin to the new ''short path'' form) or Form 8–R, depending upon their current status and the additional category requested.

[7] Commission rules referred to herein may be found at 17 CFR Chap. I (2001).

[8] Fingerprints will still not be required.

their conduct.[9] Accordingly, the Commission is removing the requirement that a signed certification be submitted to add an additional sponsor. Instead, the NFA, upon receipt of the Form 8–R for an AP seeking to add a sponsor, shall notify the existing sponsors of the AP of the application. The amended rule would continue to hold each sponsor responsible for the supervision of the AP and make each sponsor jointly and severally liable for the conduct of the AP with respect to customers common to that sponsor and another sponsor.[10] Requiring a signed acknowledgement of this fact would present an added burden for registrants that the Commission does not believe is necessary.

NFA's proposed Registration Rule 207(a) would permit a person whose application for registration as an AP is pending, or who is temporarily licensed as an AP, to apply to become registered as an AP of another sponsor. Pursuant to proposed Registration Rule 207(b), the AP would become registered as an AP of the new sponsor only if he or she is already registered as an AP with another sponsor. The Commission believes that NFA's proposed Registration Rule 207 is consistent with the proposed amendments to Commission Rule 3.12(f).

B. Updates

1. Annual and Triennial Updates

Pursuant to Commission Rule 3.31, any applicant or registrant must promptly correct any inaccuracy in its Form 7–R or Form 8–R. Accordingly, registrants are under an ongoing duty to ensure that their registration filings are accurate. Currently, pursuant to Rule 3.10(d), a firm is required to file annually with NFA a Form 7–R. For this purpose, NFA sends to each firm a pre-printed paper copy of the firm's Form 7–R that the firm must then update and file with NFA. Similarly, pursuant to Rule 3.11(d), every three years the NFA provides each registered FB and FT with a paper printout of the information contained in NFA's registration database concerning the registrant. If the information in the printout is inaccurate, the registrant must correct the information and return the printout to NFA. Otherwise, the registrant is not required to return the printout and is deemed to have recertified the registration information contained in the printout.

As noted above, these persons are already under an ongoing obligation to update the applicable registration information when necessary. The continuation of the annual and triennial update process is redundant and results in unnecessary costs to both NFA and the registrant. Accordingly, the Commission is amending the rules to delete these requirements.

2. Changes in Form of Organization

Pursuant to Rule 3.31, a change in the form of organization of a registrant requires that the registrant correct its Form 7–R. Currently, when a firm files a Form 3–R to report a change in the form of the organization, it must be accompanied by a certification ''signed in a manner sufficient to be binding under local law'' that the registrant will be liable for all obligations of the pre-existing organization. Similar to the acknowledgment currently required when an AP adds a sponsor, the Commission believes it is an unnecessary burden on registrants to require a signed certification by the registrant acknowledging its liability for the obligations of the pre-existing organization when Commission rules, and NFA rules, can make clear the registrants' responsibilities. Accordingly, the Commission is amending Rule 3.31 to make clear that, when a registrant reports a change in the form of its organization by filing a Form 3–R under Rule 3.31, it remains liable for all obligations of the pre-existing organization.

Notwithstanding the above, under the proposed amendments, where a registrant is ceasing to be or is becoming a sole proprietorship, the registrant would have to file a Form 7–W, withdrawing the registration of the pre-existing organization, and file a Form 7–R regarding the new organization. A change to or from a sole proprietorship to another form of business entity, such as a corporation, is not a mere change in the form of organization. There is a fundamental difference between a natural person and a corporation. A corporation undertaking business that was being conducted by a sole proprietor is not a continuation of an existing organization, but is the creation of a completely new and separate legal entity, thus requiring the filing of a Form 7–W regarding the pre-existing organization and a Form 7–R on behalf of the new organization.

C. Temporary Licenses

1. Initial Filing

Pursuant to Commission Rule 3.40, an applicant for registration as an AP, FB, or FT, may be granted a temporary license upon the filing of a completed Form 8–R, the applicant's fingerprints, and, (a) if the applicant is applying for registration as an AP, the required sponsor's certification, or (b) if the applicant is applying for registration as an FB or FT, the required proof of having been granted trading privileges by a contract market. Under the online registration system, there would be a delay between the filing of the Form 8–R, which will occur instantaneously via the Internet, and the filing of the applicant's fingerprints, which must still be physically provided on a fingerprint card. Accordingly, the Commission is proposing to amend Rule 3.40 to provide that NFA may grant a temporary license to an applicant for registration as an AP upon filing of the completed Form 8–R and the sponsor's certification, but before the applicant's fingerprints are filed. The fingerprints must be filed with NFA within 20 days. This will not result in any change of the policies that NFA uses in determining to grant a temporary license to an AP.

FBs and FTs will have to continue to file the current documents required under the rule, including fingerprints, to receive a temporary license. Temporary licenses for FBs and FTs will not be granted online because, to be eligible for a temporary license, FB and FT applicants must have been granted trading privileges on a contract market or DTF. It has been the experience of the Commission and NFA that FB and FT applicants, especially new applicants, almost never receive trading privileges before applying for registration. In fact, the applicant's fingerprint cards and registration fees are almost always received before an exchange grants them trading privileges. Moreover, if NFA were to grant an FB or FT applicant a temporary license and later withdraw it, such action could have larger financial implications for the individual than would be the case for an AP applicant. For example, an FB or FT applicant must make sizeable investments to obtain trading privileges on the floor of an exchange.

2. Restrictions on Activities

Currently, an applicant for registration as an FB who is granted a temporary license, and has not been registered as an FB during the preceding 60 days, is only permitted to act as an FT. The Commission does not believe that this difference is required. The fitness standards for becoming registered as an FB or an FT are the same. Likewise, the fitness standards for becoming temporarily licensed as an FB or an FT should be the same. When the

[9] Existing Commission rules also make clear the sponsor's responsibility and liability to supervise its APs. See, e.g., Rule 166.3.

[10] NFA Registration Rule 207, as amended, holds sponsors to the same standards.

Commission adopted rules that limited FBs granted temporary licenses to acting as FTs, it noted that, after gaining further experience in the area, it might revisit the issue.[11] In the nine years since applicants for registration as FBs have been permitted to receive a temporary license, the Commission and NFA have found that it is very rare that a temporary license granted to an applicant for registration as an FB has had to be terminated as a result of the ensuing fitness check. This is attributable to the fact that, in order to be granted a temporary license as an FB, an applicant must have been granted trading privileges by a contract market and a contract market conducts its own fitness check before granting a person trading privileges. Generally, information that would prevent an applicant from becoming registered with the Commission as an FB would also prevent the person from obtaining trading privileges on a contract market. Accordingly, the Commission is proposing to permit an applicant for registration as an FB who has been granted a temporary license to act in the capacity of an FB for the duration of the temporary license.

3. Special Temporary Licenses

Currently, pursuant to Commission Rule 3.11(c)(1), an FB or FT, whose registration has terminated within the preceding sixty days, and who has been granted trading privileges at a new contract market that has filed with NFA the certification required under Rule 3.40(c), regarding the applicant, will be granted a temporary license to act as an FB or FT upon mailing a Form 8–R, a fingerprint card, and if applicable, a supplemental sponsor certification. These are the same submissions necessary to be granted a temporary license under Commission Rule 3.40. However, pursuant to Rule 3.11(c)(1), once the applicant has mailed the Form 8–R and the fingerprint card to NFA the applicant's temporary license will be granted, as opposed to the requirement under Rule 3.40 that the documents be filed with NFA. However, the applicant must have been granted trading privileges by a new contract market and the contract market must have made the required certification before the applicant could be granted the temporary license. The Commission does not believe that it is necessary to maintain both rules for granting temporary licenses to FBs and FTs when the practical result under either rule is the same. Accordingly, the Commission is proposing to remove Rule 3.11(c)(1). All temporary licenses for FBs and FTs will be granted pursuant to Rule 3.40.

The Commission is also proposing to remove Rule 3.11(c)(2). Currently, pursuant to Commission Rule 3.11(c)(2), any FB or FT who continuously maintains trading privileges at a contract market may change their registration category from an FB to an FT or vice versa upon mailing to NFA a completed Form 3–R indicating an intention to change categories. As noted above, under NFA's proposed online registration system, applicants for adding additional registration categories will file a ''short path'' Form 8–R. Additionally, under Commission Rule 3.11(a), an applicant for registration as an FB or FT is not required to file a fingerprint card if the applicant has a current Form 8–R on file with NFA.[12] Accordingly, removing Rule 3.11(c)(2) should not negatively affect those already registered as FBs or FTs seeking to switch registration categories.

Similar to the granting of a temporary license as a new applicant for AP registration, as discussed above, the Commission is also proposing to amend Rule 3.12(d) to permit the granting of a special temporary license to an AP whose registration terminated within the preceding 60 days upon the filing of a completed Form 8–R, but prior to the applicant's fingerprints being filed with NFA. The fingerprints must be filed with NFA within 20 days.

D. FCM and IB Withdrawal From Registration

Currently, pursuant to Commission Rule 3.33(c)(1), when an FCM or an independent IB is requesting withdrawal from registration because it has ceased engaging in activities that require registration, their request for withdrawal must be accompanied by Form 1–FR–FCM or 1–FR–IB [13] completed within a month of the date of the request for withdrawal. Pursuant to NFA Financial Requirement Section 1(b), each FCM for which NFA is the designated self-regulatory organization must file a Form 1–FR–FCM for each month end. Accordingly, for such FCMs, a Form 1–FR–FCM for the previous month will have already been filed. Additionally, an IB is not permitted to hold customer funds. Therefore, requiring an IB seeking withdrawal to file Form 1–FR–IB in every instance is unnecessary. Moreover, if there was a reason for the Commission to be concerned about the financial state of a particular IB requesting withdrawal, the Commission may, pursuant to Rule 3.33(f)(4), require that the IB provide the appropriate financial statements, including a Form 1–FR–IB, before it is permitted to withdraw its registration. Accordingly, the Commission is proposing to remove Rule 3.33(c)(1).

E. Certification Signatories

Commission Rules 3.12(c)(1), 3.12(d)(3) (sponsor certifications regarding an applicant for AP registration), 3.33(b) (Form 7–W for a firm's withdrawal of registration), 3.44(a)(4) (FCM certification regarding a temporary license for an IB) require that only certain persons may sign the pertinent documents on behalf of the registrant.[14] Under the proposed online registration system, where the pertinent documents will be filed electronically, it would be difficult, if not impossible, to ensure that only one of the enumerated persons was actually submitting the document.

NFA, in its proposed Registration Rule 802, provides that the electronic filing of required documents constitutes, among other things, the applicant's, registrant's, or sponsor's certification that the person who electronically files the document is authorized by the entity to make the required certifications, representations, requests, acknowledgements, authorizations, and agreements contained therein. Moreover, proposed NFA Registration Rule 801(b) provides that any registration filing made on behalf of a registrant or applicant by a person authorized by the applicant or registrant shall be deemed to be a filing of such registrant or applicant.[15]

Therefore, the entity filing the pertinent certification or form under Commission Rules 3.12(c)(1), 3.33(b), 3.44(a)(4) should be held accountable for any representations in the applicable document. Accordingly, the Commission is proposing to amend these rules to make clear that a person duly authorized by the registrant or

[11] 58 FR 19575, 19583 (Apr. 15, 1993).

[12] NFA proposed Registration Rule 205(b) similarly provides that an applicant for FB or FT registration need not file a fingerprint card or pay the registration fee if the applicant has a current Form 8–R on file.

[13] The Forms 1–FR–FCM and 1–FR–IB are statements of the financial condition of an FC or IB respectively, used, in part, to ensure compliance with applicable Commission minimum financial requirements.

[14] For example, Rule 3.12(c)(1) requires that the sponsor's certification be signed by an officer if the sponsor is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship.

[15] Under the proposed NFA rules, FBs and FTs may not authorize any other person to file a Form 8–R on their behalf. Additionally, persons for whom a sponsor has filed a Form 8–R must verify the information themselves and may not authorize any other person to do so on their behalf.

sponsor must file the relevant certification or form.

F. Other Amendments

The Commission is also proposing to make certain technical amendments. For example, the Commission is proposing to amend Rules 3.11 and 3.31 so as to reference both contract markets and derivatives transaction execution facilities. Additionally, the Commission is proposing to remove references in Part 3 to Part 180, which has been removed and reserved.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'')[16] requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[17] The Commission has previously determined that FCMs, registered CPOs, and LTMs are not small entities for the purpose of the RFA.[18] Therefore, the requirements of the RFA do not apply to those entities. With respect to the remaining entities, the proposed rule amendments will not place any additional burdens upon such parties since all registrants are already subject to the registration filing requirements of the Act and Part 3 of the Commission's regulations. To the contrary, the proposed amendments will help to streamline and simplify the current registration procedures. Accordingly, the Chairman, on behalf of the Commission, certifies pursuant to Section 3(a) of the RFA [19] that the proposed rules will not have a significant economic impact on a substantial number of small entities. However, the Commission invites the public to comment on this finding.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'') [20] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The proposed rule amendments do not require a new collection of information on the part of any entities subject to the proposed rule amendments. Accordingly, for purposes of the PRA, the Commission certifies that these proposed rule amendments, if promulgated in final form, would not impose any new reporting or recordkeeping requirements. The Commission has submitted hard copies of how the screens will appear in the electronic registration system to OMB.

C. Cost-Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to ''consider the costs and benefits'' of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed amendments are intended to facilitate a streamlined registration process that would result in less redundancy and quicker processing of applications. The Commission is considering the costs and benefits of these rules in light of the specific provisions of Section 15(a) of the Act:

1. Protection of Market Participants and the Public

While the proposed amendments are expected to lessen the burden imposed upon applicants in the registration process, they do not reduce the fitness standards for becoming registered with the Commission. Accordingly, they should have no effect on the Commission's ability to protect market participants and the public.

2. Efficiency and Competition

The proposed amendments are expected to benefit efficiency and competition by more quickly facilitating entry into the industry and by enabling information to be collected and made available in a more timely manner.

3. Financial Integrity of Futures Markets and Price Discovery

The proposed amendments should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the futures and options markets.

4. Sound Risk Management Practices

The proposal should have no effect on the risk management practices of the futures and options industry.

5. Other public interest considerations

The proposed amendments, in facilitating the change to an online registration system, are expected to result in a registration system that is easier to use and more efficient in its processing of registration applications. Additionally, the system should permit more information about registrants to be readily accessible by the public more quickly.

After considering these factors, the Commission has determined to propose the amendments discussed above. The Commission invites public comment on its application of the cost-benefit provision. Commenters also are invited to submit any data that they may have quantifying the costs and benefits of the proposal with their comment letters.

Lists of Subjects in 17 CFR Part 3

Brokers, Commodity Futures, Registration.

In consideration of the foregoing, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. The authority citation for Part 3 continues to read as follows:

Authority: 5 U.S.C. 522, 522b; 7 U.S.C. 1a, 2, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23.

2. Section 3.2 is amended by revising paragraph (c) to read as follows:

§ 3.2 Registration processing by the National Futures Association; notification and duration of registration.

* * * * *

(c) The National Futures Association shall notify the registrant, or the sponsor in the case of an applicant for registration as an associated person, and each designated contract market or registered derivatives trading execution facility that has granted the applicant

[16] 5 U.S.C. 601 *et seq.*

[17] 47 FR 18618 (April 30, 1982).

[18] *Id.* at 18619–20 (discussing FCMs and CPOs); 54 FR 19556, 19557 (May 8, 1989) (discussing LTMs).

[19] 5 U.S.C. 605(b).

[20] 44 U.S.C. 3501 *et seq.*

trading privileges in the case of an applicant for registration as a floor broker or floor trader, if registration has been granted under the Act.

(1) If an applicant for registration as an associated person receives a temporary license in accordance with § 3.40, the National Futures Association shall notify the sponsor that only a temporary license has been granted.

(2) If an applicant for registration as a floor broker or floor trader receives a temporary license in accordance with § 3.40, the National Futures Association shall notify the designated contract market or registered derivatives trading execution facility that has granted the applicant trading privileges that only a temporary license has been granted.

* * * * *

3. Section 3.10 is amended by revising paragraph (a)(2)(i) and by removing paragraph (d) to read as follows:

§ 3.10 Registration of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

(a) * * *

(2)(i) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1)(i) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose: *Provided, however*, that if such principal is a director who qualifies for the exemption from the fingerprint requirement pursuant to § 3.21(c) or has a current Form 8–R on file with the Commission or the National Futures Association, the fingerprints of that principal do not need to accompany the Form 7–R.

* * * * *

4. Section 3.11 is revised by amending paragraphs (a)(2), (a)(3), and (b), and by removing paragraphs (c) and (d) to read as follows:

§ 3.11 Registration of floor brokers and floor traders.

(a) * * *

(2) An applicant for registration as a floor broker or floor trader will not be registered or issued a temporary license as a floor broker or floor trader unless the applicant has been granted trading privileges by a board of trade designated as a contract market or registered as a derivatives transaction execution facility by the Commission.

(3) When the Commission or the National Futures Association determines that an applicant for registration as a floor broker or floor trader is not disqualified from such registration or temporary license, the National Futures Association will notify the applicant and any contract market or derivatives transaction execution facility that has granted the applicant trading privileges that the applicant's registration or temporary license as a floor broker or floor trader is granted.

(b) *Duration of registration.* A person registered as a floor broker or floor trader in accordance with paragraphs (a) or (c) of this section, and whose registration has neither been revoked nor withdrawn, will continue to be so registered unless such person's trading privileges on all contract markets or derivatives transaction execution facilities have ceased: Provided, That if a floor broker or floor trader whose trading privileges on all contract markets or derivatives transaction execution facilities have ceased for reasons unrelated to any Commission action or any contract market or derivatives transaction execution facility disciplinary proceeding and whose registration is not revoked, suspended or withdrawn is granted trading privileges as a floor broker or floor trader, respectively, by any contract market or derivatives transaction execution facility where he held such privileges within the preceding sixty days, such registration as a floor broker or floor trader, respectively, shall be deemed to continue and no new Form 8–R or Form 3–R need be filed solely on the basis of the resumption of trading privileges. A floor broker or floor trader is prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of any registrant during the pendency of any suspension of such registration or of all such trading privileges. In accordance with § 3.31(d), each contract market or derivatives transaction execution facility that has granted trading privileges to a person who is registered, or has applied for registration, as a floor broker or floor trader, must notify the National Futures Association within sixty days after such person's trading privileges on such contract market or derivatives transaction execution facility have ceased.

5. Section 3.12 is amended as follows:

a. By revising paragraphs (c)(1), (c)(4), and the introductory text of paragraph (d)(1);

b. By redesignating paragraphs (d)(2) and (d)(3) as (d)(3) and (d)(4) and revising paragraphs (d)(3) and (d)(4) as redesignated;

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

d. By revising paragraph (f), the revisions and addition to read as follows:

§ 3.12 Registration of associated persons of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators, and leverage transaction merchants.

* * * * *

(c) * * *

(1) No person registered as an associated person in accordance with this paragraph (c) unless a person duly authorized by the sponsor certifies that:

* * * * *

(4) When the Commission or the National Futures Association determines that an applicant for registration as an associated person is not unfit for such registration, it will notify the sponsor that has made the certifications required by paragraph (c)(1) of this section that the applicant's registration as an associated person is granted contingent upon the sponsor hiring or otherwise employing the applicant as such within thirty days.

* * * * *

(d) *Special temporary licensing and registration procedures for certain persons. (1) Registration terminated within the preceding 60 days.* Except as otherwise provided in paragraphs (f) and (i) of this section, any person whose registration as an associated person in any capacity has terminated within the preceding 60 days and who becomes associated with a new sponsor will be granted a temporary license to act in the capacity of an associated person of such sponsor upon filing by that sponsor with the National Futures Association a Form 8–R, completed in accordance with the instructions thereto and, if applicable, a Supplemental Sponsor Certification Statement filed on behalf of the new sponsor (who must meet the requirements set forth in § 3.60(b)(2)(i)(A) and (B)) stating that the new sponsor will supervise the applicant in accordance with conditions identical to those agreed to by the previous sponsor, which includes certifications stating:

* * * * *

(2) Any temporary license granted pursuant to paragraph (d)(1) of this section shall be terminated immediately

upon notice to the sponsor of the person granted the temporary license that, within 20 days following the date the temporary license was issued, the National Futures Association has not received the applicant's fingerprints.

(3) A temporary license received in accordance with paragraph (d)(1) of this section shall be subject to the provisions of §§ 3.42 and 3.43.

(4) The certifications permitted by paragraphs (d)(1)(i) and (v) of this section must be filed by a person duly authorized by the sponsor. The certifications permitted by paragraphs (d)(1)(ii)–(iv) must be filed by the applicant for registration as an associated person.

* * * * *

(f) *Reporting of dual and multiple associations.* (1)(i) Except as otherwise provided in paragraph (f)(4) of this section, a person who is already registered as an associated person in any capacity whose registration is not subject to conditions or restrictions may become associated as an associated person with another sponsor if the new sponsor (who must meet the requirements set forth in § 3.60(b)(2)(i)(A) and (B)) files with the National Futures Association a Form 8–R in accordance with the instructions thereto.

(ii) NFA shall notify each sponsor of the associated person that the associated person has applied to become associated with another sponsor.

(iii) Each sponsor of the associated person shall supervise that associated person and each sponsor is jointly and severally responsible for the conduct of the associated person with respect to the:

(A) Solicitation or acceptance of customers' orders,

(B) Solicitation of funds, securities, or property for a participation in a commodity pool,

(C) Solicitation of a client's or prospective client's discretionary account,

(D) Solicitation or acceptance of leverage customers' orders for leverage transactions, and

(E) Associated person's supervision of any person or persons engaged in any of the foregoing solicitations or acceptances, with respect to any customers common to it and any other futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, or leverage transaction merchant with which the associated person is associated.

(2) Upon receipt by the National Futures Association of a Form 8–R filed in accordance with paragraph (f)(1) of this section from an associated person, the associated person named therein shall be registered as an associated person of the new sponsor.

* * * * *

6. Section 3.31 is amended as follows:

a. By revising paragraph (a)(1);

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

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

d. By revising paragraph (a)(3); and

e. By amending paragraph (d) by adding ''or derivatives transaction execution facility'' after each instance of ''contract market''; the revisions and addition to read as follows:

§ 3.31 Deficiencies, inaccuracies, and changes, to be reported.

(a)(1) Each applicant or registrant as a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant shall, in accordance with the instructions thereto, promptly correct any deficiency or inaccuracy in Form 7–R or Form 8–R which no longer renders accurate and current the information contained therein. Each such correction shall be made on Form 3–R and shall be prepared and filed in accordance with the instructions thereto. *Provided, however*, that where a registrant is reporting a change in the form of organization from or to a sole proprietorship, the registrant must file a Form 7–W regarding the pre-existing organization and a Form 7–R regarding the newly formed organization.

(2) If a registrant files a Form 3–R, pursuant to this section, to report a change in the form of the organization of the registrant, the registrant shall be liable for all obligations of the pre-existing organization under the Act, as it may be amended from time to time, and the rules, regulations, or orders which have been or may be promulgated thereunder.

(3) Where the deficiency or inaccuracy is created by the addition of a new principal not listed on the registrant's application for registration (or amendment of such application prior to the granting of registration), and the new principal is not a natural person, the registrant shall file a Form 3–R filed in accordance with the requirements of paragraph (a)(1) of this section. *Provided, however*, that if the new principal is a natural person, the registrant shall file a Form 8–R, completed in accordance with the instructions thereto and executed by such person who is a principal of the registrant and who was not listed on the registrant's initial application for registration or any amendment thereto. The Form 8–R for each such principal shall be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose, unless such principal is a director who qualifies for the exemption from the fingerprint requirement pursuant to § 3.21(c) or such principal has a current Form 8–R on file with the Commission or the National Futures Association.

* * * * *

§ 3.33 [Amended].

7. Section 3.33 is amended as follows:

a. By amending the introductory text of paragraph (b) by removing ''the sole proprietor if the registrant is a sole proprietorship, by a general partner if a partnership, or by the president or chief executive officer if a corporation,'' and adding in its place ''a person duly authorized by the registrant'';

b. By removing paragraph (b)(3);

c. By redesignating paragraphs (b)(4) through (b)(7) as (b)(3) through (b)(6);

d. By removing paragraph (c)(1);

e. By redesignating paragraph (c)(2) as paragraph (c);

f. By removing and reserving paragraph (d); and

g. By amending paragraph (e) by removing ''sent to the National Futures Association, Registration Office, 200 West Madison Street, Chicago, Illinois 60606'' and adding in its place ''filed with the National Futures Association''.

8. Section 3.40 is revised to read as follows:

§ 3.40 Temporary licensing of applicants for associated person, floor broker or floor trader registration.

(a) Notwithstanding any other provision of these regulations and pursuant to the terms and conditions of this subpart:

(1) The National Futures Association may grant a temporary license to any applicant for registration as an associated person upon the contemporaneous filing with the National Futures Association of:

(i) A Form 8–R, properly completed in accordance with the instructions thereto; and

(ii) The sponsor's certification required by § 3.12(c): *Provided, however,* that the fingerprints of the applicant on a fingerprint card provided by the National Futures Association for that purpose must be filed with the National Futures Association within 20 days following the date the temporary license is issued; and, *provided further*, that failure to file the fingerprints within this period will result in the

termination of the temporary license immediately upon notice to the applicant's sponsor that the National Futures Association has not received the applicant's fingerprints.

(2) The National Futures Association may grant a temporary license to any applicant for registration as a floor broker or floor trader upon the contemporaneous filing with the National Futures Association of:

(i) A Form 8–R, properly completed in accordance with the instructions thereto;

(ii) The fingerprints of the applicant on a fingerprint card provided by the National Futures Association for that purpose;

(iii) A Supplemental Sponsor Certification Statement executed by a sponsor meeting the requirements under § 3.60(b)(2)(i), if the applicant is subject to an order imposing conditions on the applicant's registration; and

(iv) Evidence that the applicant has been granted trading privileges by a contract market or derivatives transaction execution facility that has filed with the National Futures Association a certification signed by its chief operating officer with respect to the review of an applicant's employment, credit and other history in connection with the granting of trading privileges.

(b) The failure of an applicant or the applicant's sponsor to respond to a request by the Commission or the National Futures Association for clarification of any information set forth in the application of the applicant or for the resubmission of fingerprints in accordance with such request will be deemed to constitute a withdrawal of the applicant's registration application and shall result in the immediate termination of the applicant's temporary license.

(c) Subject to the provisions of § 3.42 and all of the obligations imposed on such registrants under the Act (in particular, section 14 thereof) and the rules, regulations, and orders thereunder, an applicant for registration as an associated person who has received notification that a temporary license has been granted may act in the capacity of an associated person, an applicant for registration as a floor trader who has received written notification that a temporary license has been granted may act in the capacity of a floor trader, and an applicant for registration as a floor broker who has received written notification that a temporary license has been granted may act in the capacity of a floor broker.

§ 3.41 [Removed]

9. Section 3.41 is removed.

10. Section 3.42 is amended by revising paragraphs (a)(2), (a)(3), (a)(4) and (a)(6) to read as follows:

§ 3.42 Termination.

(a) * * *

(2) Immediately upon termination of the association of the applicant for registration as an associated person with the registrant which filed the sponsorship certification, or immediately upon loss of trading privileges by an applicant for registration as a floor broker or floor trader on all contract markets which filed the certification described in § 3.40;

(3) Immediately upon the withdrawal of the registration application pursuant to § 3.40;

(4) Immediately upon failure to comply with an order to pay a civil monetary penalty, restitution, or disgorgement within the time permitted under Sections 6(e), 6b, or 6c(d) of the Act;

* * * * *

(6) Immediately upon failure to comply with an award in an arbitration proceeding conducted pursuant to the rules of a designated contract market, registered derivatives transaction execution facility, or registered futures association within the time specified in Section 10(g) of the National Futures Association's Code of Arbitration or the comparable time period specified in the rules of a contract market, registered derivatives transaction execution facility, or other appropriate arbitration forum.

* * * * *

11. Section 3.44 is amended by revising the introductory text of paragraph (a)(4) and revising paragraph (a)(5) to read as follows:

§ 3.44 Temporary licensing of applicants for guaranteed introducing broker registration.

(a) * * *

(4) A certification executed by a person duly authorized by the futures commission merchant that has executed the guarantee agreement required by paragraph (a)(1) of this section, stating that:

* * * * *

(5) The fingerprints of the applicant, if a sole proprietor, and of each principal (including each branch office manager) thereof on fingerprint cards provided by the National Futures Association for that purpose: *Provided,* that a principal who has a current Form 8–R on file with the National Futures Association or the Commission is not required to submit a fingerprint card.

* * * * *

12. Section 3.46 is amended by revising paragraphs (a)(6) and (a)(8) to read as follows:

§ 3.46 Termination.

(a) * * *

(6) Immediately upon failure to comply with an order to pay a civil monetary penalty, restitution, or disgorgement within the time permitted under Sections 6(e), 6b, or 6c(d) of the Act;

* * * * *

(8) Immediately upon failure to comply with an award in an arbitration proceeding conducted pursuant to the rules of a designated contract market, registered derivatives transaction execution facility, or registered futures association within the time specified in Section 10(g) of the National Futures Association's Code of Arbitration or the comparable time period specified in the rules of a contract market, registered derivatives transaction execution facility, or other appropriate arbitration forum.

* * * * *

Issued in Washington, DC on April 12, 2002, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–9296 Filed 4–18–02; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD05–02–018]

RIN 2115–AA97

Security Zone; Potomac River, Washington Channel, Washington, DC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary security zone in the waters of the Potomac River off Fort Lesley J. McNair, Washington, DC during the May 31, 2002, U.S. Coast Guard Chief of Staff's retirement ceremony. The security zone is necessary to provide for the security and safety of life and property of event participants, spectators and mariners on U.S. navigable waters during the event. Entry into this zone is prohibited unless authorized by the Captain of the Port, Baltimore, Maryland, or designated representative.

DATES: Comments and related material must reach the Coast Guard on or before May 20, 2002.

ADDRESSES: You may mail comments and related material to the Port Safety, Security and Waterways Management Branch, at Commander, U.S. Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland, 21226–1791. U.S. Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at U.S. Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ronald L. Houck, Port Safety, Security and Waterways Management Branch, at telephone number (410) 576–2674.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–02–018), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8\1/2\ by 11 inches, suitable for copying. If you would like to know your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, U.S. Coast Guard Activities Baltimore at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

Background and Purpose

The Coast Guard will conduct a retirement ceremony along the Washington Channel at Washington, DC. A security zone is needed to protect dignitaries taking part in the high-level military ceremony from potential threats posed by waterborne acts of sabotage or other subversive acts. The purpose of the proposed regulation is to promote maritime safety and protect participants and spectators during the event. These regulations will impact the movement of all vessels operating in the specified area on the Washington Channel at Washington, DC.

Discussion of Proposed Rule

The U.S. Coast Guard Chief of Staff's retirement ceremony will be held at Fort Lesley J. McNair, Washington, D.C. on May 31, 2002. The event will consist of a background comprised of the U.S. Coast Guard Cutter EAGLE anchored adjacent to Fort McNair on the confined waters of the Washington Channel of the Potomac River. A security zone is needed from 9 a.m. to 2 p.m. on May 31, 2002 to safeguard event participants and spectators. U.S. Coast Guard patrol vessels will be provided to prevent the movement of persons and vessels in an area approximately 200 yards wide and 450 yards long within Washington Channel. Entry into this zone is prohibited unless authorized by the Captain of the Port or his or her designated representative. The Captain of the Port will notify the public of changes in the status of the zone by a Marine Safety Radio Broadcast.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This temporary rule affects a limited area for approximately five hours, and will not completely close the navigable channel. Therefore, the Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. Because this proposal will only be in effect for a limited amount of time, and extensive advisories will be made to the affected maritime community so that they may adjust their schedules accordingly, the Coast Guard expects the impact of this proposal to be minimal.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Ronald L. Houck, Port Safety, Security and Waterways Management Branch, at telephone number (410) 576–2674.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation because of the limited duration and scope of the regulation. A ''Categorical Exclusion Determination'' is available in the docket where indicted under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.T05–018 to read as follows:

§ 165.T05–018 Security Zone; Potomac River, Washington Channel, Washington, D.C.

(a) *Location.* The following area is a security zone: all waters of the Potomac River, from surface to bottom, encompassed by lines connecting the following points, beginning at 38° 52′03″ N, 077° 01′07″ W, thence to 38° 52′03″ N, 077° 01′14″ W, thence to 38° 51′50″ N, 077° 01′16″ W, thence to 38° 51′50″ N, 077° 01′07″ W, thence to 38° 52′03″ N, 077° 01′07″ W. These coordinates are based upon NAD 1983.

(b) *Regulations.* (1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Baltimore, Maryland, or his or her designated representative. Section 165.33 also contains other general requirements.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number (410) 576–2693 or on VHF channel 16 (156.8 MHz) or VHF channel 22 (157.1 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(d) *Effective period.* This section is effective from 9 a.m. through 2 p.m. on May 31, 2002.

Dated: April 4, 2002.

R. B. Peoples,

Captain, U.S. Coast Guard,

Captain of the Port, Baltimore, Maryland.

[FR Doc. 02–9679 Filed 4–18–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego–02–005]

RIN 2115–AA97

Safety Zone; Colorado River, Between Davis Dam and Laughlin Bridge, Arizona and Nevada

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a temporary safety zone within the Davis Camp Region on the navigable waters of the Colorado River for the Laughlin River Days boat race. This safety zone, proposed for June 1 and 2, 2002, consists of the navigable waters of the Colorado River between Davis Dam and the Laughlin Bridge. This temporary safety zone is necessary to provide for the safety of the crew, spectators, and participants of the race, and to protect the participating vessels, as well as other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: Comments and related material must reach the Coast Guard on or before May 15, 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101–1064. Marine Safety Office San Diego Port Operations maintains the public docket for this rulemaking. Comments and material received from the public, as well as

documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101–1064 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Austin Murai, USCG, c/o U.S Coast Guard Captain of the Port, telephone (619) 683–6495.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. You have until May 15, 2002, to comment on the proposed temporary final rule. This short comment period will permit the Coast Guard to publish a temporary final rule before the event and thus help ensure public safety. In our final rule, we will include a concise general statement of the comments received and identify any changes from the proposed rule based on the comments. If, as we expect, we make a final rule effective less than 30 days after publication in the **Federal Register**, we will explain our good cause for doing so as required by 5 U.S.C. 553(d)(3).

In making comments, please include your name and address, identify the docket number for this rulemaking [COTP San Diego–02–005], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office San Diego Port Operations at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This proposed temporary safety zone is necessary to provide for the safety of the participants, spectators, and sponsor vessels of the Laughlin River Days boat race. This proposed zone is also necessary to protect other vessels and users of the waterway. Persons and vessels would be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

Discussion of Proposed Rule

The following area would constitute the proposed temporary safety zone: from that portion of the Colorado River, starting at Davis Dam, mile marker 276, to the Laughlin Bridge, mile marker 274.1. We are proposing to enforce this safety zone between the Davis Dam and the Laughlin Bridge from 8 a.m. through 5 p.m. (MST) on both June 1 and 2, 2002. The on scene Captain of the Port designated representative is expected to be a Coast Guard patrol commander.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Because of its limited duration and because traffic would be able to transit with permission of the Captain of the Port or his designated representative (expected to be the Coast Guard patrol commander), we expect the economic impact of this proposed rule would be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

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

This proposed safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed safety zone would be enforced for 9 hours on June 1, 2002 and June 2, 2002 and vessel traffic would be allowed to pass through the zone if they obtain permission of the Captain of the Port or his designated representative.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Austin Murai, Marine Safety Office San Diego at (619) 683–6495.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Protection of Children

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

Environment

We have considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.lD, this proposed rule, a safety zone, is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 60.5; 49 CFR 1.46.

2. From 8 a.m. on June 1, 2002, through 5 p.m. on June 2, 2002, add a new temporary § 165.T11–037 to read as follows:

§ 165.T11–037 Safety Zone: Colorado River, Between Davis Dam and Laughlin Bridge.

(a) *Location.* The following area is a safety zone: from that portion of the Colorado River, starting at Davis Dam, mile marker 276, to the Laughlin Bridge, mile marker 274.1.

(b) *Enforcement periods.* This section will be enforced from 8 a.m. to 5 p.m. (MST) on June 1, 2002 and from 8 a.m. to 5 p.m. on June 2, 2002.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through or anchoring within the safety zone is prohibited unless authorized by the Coast Guard Captain of the Port, San Diego, or his designated representative.

Dated: March 27, 2002.

S.P. Metruck,

Commander, Coast Guard, Captain of the Port, San Diego.

[FR Doc. 02–9681 Filed 4–18–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–46–200221(b); FRL–7172–8]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the Georgia State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Georgia on August 9, 1999. The submittal contains revisions to Georgia's Rules for Air Quality Control and Rules for Enhanced Inspection and Maintenance. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before May 20, 2002.

ADDRESSES: All comments should be addressed to: Scott M. Martin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

FOR FURTHER INFORMATION CONTACT: Scott Martin at (404) 562–9036. Email: martin.scott@epa.gov

SUPPLEMENTARY INFORMATION: For additional information see the direct

final rule which is published in the Rules section of this **Federal Register**.

Dated: April 8, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–9491 Filed 4–18–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 020326071-2071-01; I.D. 021402D]

RIN 0648-AP83

Taking and Importing Marine Mammals; Taking Bottlenose Dolphins and Spotted Dolphins Incidental to Oil and Gas Structure Removal Activities in the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NMFS is proposing to issue regulations authorizing and governing the taking of bottlenose and spotted dolphins incidental to the removal of oil and gas drilling and production structures in state waters and on the Outer Continental Shelf (OCS) in the Gulf of Mexico for a period not to exceed 1 year. The incidental taking of small numbers of marine mammals is authorized by the Marine Mammal Protection Act (MMPA), if certain findings are made and regulations are issued that include requirements for monitoring and reporting. These regulations do not authorize the removal of the rigs as such authorization is provided by the Minerals Management Service (MMS) and is not within the jurisdiction of NMFS. Rather, these regulations authorize the unintentional incidental take of marine mammals in connection with such activities and prescribe methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat.

DATES: Comments and information must be received no later than May 6, 2002.

ADDRESSES: Comments on the proposed rule should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3282. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Environmental Assessment (EA) for this proposed rule may be obtained by writing to this address or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**).

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this proposed rule should be sent to the Chief of the Office of Protected Resources, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Simona Perry Roberts, Office of Protected Resources, (301) 713-2322.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations governing the taking are issued. Effective January 26, 1996, by Department Delegation Order 10-15, the Secretary of Commerce (Secretary) delegated authority to perform the functions vested in the Secretary as prescribed by the MMPA to the Administrator of the National Oceanic and Atmospheric Administration. On December 17, 1990, under NOAA Administrative Order 205-11, 7.01, the Under Secretary for Oceans and Atmosphere delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA.

Permission for a take shall be granted if the Secretary through NMFS finds, after notice and opportunity for public comment, that the taking will involve only small numbers of marine mammals, will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. If such findings are warranted, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking.

On October 12, 1995 (60 FR 53145), NMFS issued regulations governing the taking of bottlenose and spotted dolphins incidental to oil and gas structure removal activities in state waters and on the Outer Continental Shelf (OCS) in the Gulf of Mexico (50 CFR 216.141-148). Under these regulations, operators who removed oil and gas drilling and production structures and related facilities in state and Federal waters of the Gulf of Mexico adjacent to the coasts of Texas, Louisiana, Mississippi, Alabama, and Florida applied for Letters of Authorization to incidentally take bottlenose and spotted dolphins in the course of structure removal activities. On November 13, 2000, these regulations expired and NMFS could no longer issue Letters of Authorization for structure removal activities in the Gulf of Mexico.

Summary of Action

NMFS proposes new regulations governing the incidental take of bottlenose dolphins (*Tursiops truncatus*) and spotted dolphins (*Stenella frontalis* and *S. attenuata*) in water depths equal to or less than 200 meters (m) (656 feet, ft) for a period not to exceed 1 year. If these new regulations are finalized, operators who remove oil and gas drilling and production structures and related facilities in state and Federal waters of the Gulf of Mexico adjacent to the coasts of Texas, Louisiana, Mississippi, Alabama, and Florida could apply for Letters of Authorization to incidentally take bottlenose and spotted dolphins in the course of structure removal activities in water depths equal to or less than 200 m (656 ft).

NMFS received a request from the American Petroleum Institute (API) for regulations similar to those proposed here on October 30, 1989. In their request, API estimated that 670 structures would be removed in the Gulf of Mexico over a 5-year authorization period. While most of the structures were in water less than 30.5 m (100 ft) deep, a few may be in deeper water. A longer range plan estimated that about 5,500 structures will be removed in a 35-year period. The most frequently used procedure of removal is to wash the soil from inside the piling, lower an explosive charge to 15 ft (4.6 m) below the mudline, and detonate the charge, which cuts the piling. On February 12, 2002, API submitted a request to NMFS requesting an interim policy statement to provide the industry with protection

from incidental take liability under the MMPA during the 2002 platform decommissioning and removal season. In response, NMFS has elected to propose these regulations.

The effects of explosives used for removal of oil and gas structures on ESA-listed species under NMFS' purview were analyzed in a previous biological opinion. That opinion concluded that the use of explosives to remove oil and gas structures, accompanied by the use of an observer program and other take minimization measures laid out in the accompanying incidental take statement, was not likely to jeopardize the continued existence of endangered and threatened sea turtles. This proposed regulation to authorize incidental takes of marine mammals would not change the conclusions of the previous biological opinion because the underlying action (including the use of observers and take minimization measures) is the same. No ESA-listed marine mammals are implicated in this action.

While bottlenose and spotted dolphins are not listed as threatened or endangered under the ESA, they are protected under the authority of the MMPA. Therefore, operators removing structures must receive an authorization under the MMPA before a take is allowed. Similar to the case for sea turtles, impacts to dolphins would come from exposure to sound and pressure waves associated with detonating the explosives. API has stated that the most likely form of incidental take as a result of structure removals is harassment from low level sound and pressure waves. However, animals close enough to the detonation could be injured or killed as a result of tissue destruction. In recognition of this, removal operators have employed the mitigation measures for sea turtles to also protect dolphins prior to API's 1989 request to NMFS and since regulations governing the taking of small numbers of bottlenose and spotted dolphins expired in November 2000.

Summary of Proposed Rule

This proposed rule would authorize the incidental taking of bottlenose dolphins and spotted dolphins by U.S. citizens engaged in removing oil and gas drilling and production structures in state and Federal waters equal to or less than 200 m (656 ft) in the Gulf of Mexico adjacent to the coasts of Texas, Louisiana, Mississippi, Alabama, and Florida for a period not to exceed 1-year. This proposed rule requires that all activities be conducted in a manner that minimizes adverse effects on bottlenose dolphins and spotted dolphins and their habitat. Mitigation, monitoring, and reporting requirements would be consistent with those in place at the time of this proposal for the incidental take of endangered and threatened sea turtles authorized for the same activities under the ESA.

Description of Removal Activities

The technology most commonly used in the dismantling of platforms includes: bulk explosives, shaped explosive charges, mechanical and abrasive cutters, and underwater arc cutters. The use of bulk explosives has become the industry's standard procedure for severing pilings, well conductors and related supporting structures. When using bulk charges, the inside of the structure's piles are washed out to at least 15 ft (4.6 m) below the sediment floor to allow placement of explosives inside of the structure. Such placement results in a decrease in the impulse and pressure forces released into the water column upon detonation. The sizes of the explosive charges are generally 50 lb (22.7 kg) or less, but can be as much as 200 lb (90.8 kg) when necessary. The use of high velocity shaped charges is reported to have some advantages over bulk explosives and has been used in combination with smaller bulk charges. The cutting action obtained by a shaped charge is accomplished by focusing the explosive energy with a conical metallic liner. A major advantage associated with use of high velocity shaped charges is that a smaller amount of explosive charge is required to sever the structure, which also results in reductions in the impulse and pressure forces released into the water column. Use of mechanical cutters and underwater arc cutters can be successful in some circumstances, and because they do not produce the impulse and pressure forces associated with detonation of explosives, such use does not involve the incidental taking of marine mammals. According to MMS, these methods are, in most instances, more time- consuming, costly and hazardous to divers. Furthermore, if the use of mechanical or arc cutters were to fail before the structure was completely severed, a larger charge may be necessary to remove the structure.

Description of Habitat and Marine Mammals Affected by Oil and Gas Rig Removals

A description of the Gulf of Mexico continental shelf area and the biology and abundance of bottlenose and spotted dolphins in the Gulf of Mexico that are anticipated to be taken by this activity can be found in the EA prepared for previous rulemaking. This information can also be found in the previous proposed rule for regulations (58 FR 33425, June 17, 1993). To avoid the incidental take of other marine mammal species, NMFS will prohibit the incidental taking of marine mammals in water depths greater than 200 m (656 ft). Copies of the EA and API's 1989 application are available upon request (see **ADDRESSES**).

Potential Impact of Removal Activities on Bottlenose and Spotted Dolphins

The potential for injury to marine mammals in the vicinity of underwater explosions is associated with gas-containing internal organs, such as the lungs and intestines. The extent of potential injury decreases as: (1) distance of the marine mammal from the explosion increases; (2) size of the marine mammal increases; (3) depth of the explosion and the affected marine mammal decreases; and, (4) size of the explosive charge decreases. In addition, explosive charges confined in structure pilings below the mudline produce shock waves of lower pressure (at a given distance from the explosion) than free-water explosions.

A computer model, developed to predict the distances from which marine mammals would suffer only slight injury from underwater explosions, estimated that a bottlenose dolphin calf would receive only slight injury about 4,000 ft (1,200 m) from a 1,200-lb (544-kg) charge detonated in open water at a depth of 125 ft (38 m). According to API, most structures scheduled for removal in 2002 are located in water less than 100 ft (38 m) deep. In most cases, charges are no greater than 50 lb (22.7 kg) and are confined within the structure piles about 15 ft (4.6 m) below the mudline. Therefore, as explained in detail in the EA, it may be assumed that marine mammals more than 3,000 ft (910 m) from structures to be removed would avoid injury caused by the explosions.

An increase in strandings of bottlenose dolphins in the northwestern Gulf of Mexico occurred in March and April 1986 following the use of explosives to remove oil and gas structures in the area. However, there is no evidence linking the strandings to the removal of the structures. Furthermore, observers at removals of more than 525 structures in the Gulf of Mexico reported no indication of injury or death to bottlenose or spotted dolphins, or any other marine mammal related to these structure removals. According to observer reports required by NMFS during the 5-year duration of the previous regulations' effectiveness,

there were no marine mammal takes associated with removal activities.

The best scientific information available indicates that dolphins cannot hear well in the frequencies emitted by explosive detonations (Richardson *et al.*, 1991), and additional evidence indicates that they may not be able to hear the pulse generated from open-water underwater detonations of explosive charges because of their short duration (ca. 0.05 sec) (Lento, 1992). However, for purposes of this proposed rule, bottlenose and spotted dolphins will be considered to be taken by harassment, as a result of a non-injurious physiological response to the explosion-generated shockwave and potential behavioral impacts. For example, Turl (1993) has suggested that Atlantic bottlenose dolphins may be able to detect low frequency sound by some mechanism other then conventional hearing. In addition, there may be harassment due to tactile stings from the shockwave accompanying detonations. This type of taking has been inferred from studies on humans and seems plausible given studies on dolphin skin sensitivity where researchers (Ridgway, S.H. and D.A. Carter. 1993; 1990) concluded that the most sensitive areas of the dolphin skin (mouth, eyes, snout, melon and blowhole) are about as sensitive as the skin of human lips and fingers. Therefore, even if dolphins are not capable of hearing the acoustic signature of the explosion, physiological or behavioral responses to those detonations may still result.

Preliminary Conclusion

For the reasons discussed above and in an EA prepared for rulemaking, NMFS believes that the proposed activity will likely result in the taking of only small numbers of bottlenose and spotted dolphins by harassment; the total of such taking during a 1-year period will likely have only a negligible impact on these species; and the takings will probably not have an unmitigable adverse impact on the availability of bottlenose and spotted dolphins for subsistence uses.

Classification

This action is not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration, when the original rule was proposed (58 FR 33425, June 17, 1993), that, if adopted, the rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. In 1994, approximately 10 small businesses were active in removing oil and gas structures in the Gulf of Mexico. These small businesses work under contract to major petroleum companies, which bear the costs of mitigation measures. Moreover, the mitigation measures required by this proposed rule are identical to those already being followed by these small businesses during removal of oil and gas structures to protect endangered and threatened sea turtles and the number of small business remains about the same as in 1994. Because of this classification, a regulatory flexibility analysis was neither required nor prepared. This action does not alter those conclusions. Therefore, the Chief Counsel for Regulation is again certifying that the rule, if adopted, would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. These requirements are identical to those approved during previous rulemaking on the same activity by the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act issued under OMB Control number 0648-0151. Public reporting burden for this collection of information was estimated to average 27.5 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed and complete and review the collection of information. Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement, including suggestions for reducing the burden to NMFS and OMB (see **ADDRESSES**) contained in this proposed rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

National Environmental Policy Act

NMFS' proposed rule to govern the incidental take of bottlenose and spotted dolphins during removal of oil and gas structures in the Gulf of Mexico will not individually or cumulatively have a significant impact on the quality of the human environment. In accordance with section 6.01 of NOAA Administrative Order 216-6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS has analyzed both the context and intensity of this action and determined based on previous environmental assessments that the rule proposed and the proposal to issue 1-year Letters of Authorization to the oil and gas industry will not individually or cumulatively result in a significant impact on the quality of the human environment as defined in 40 CFR 1508.27 and is therefore categorically excluded from further NEPA analysis. As a result of that determination, an environmental impact statement was not been prepared. This action is within the scope of the previous EA and does not alter its conclusions.

This rule does not contain policies with federalism implications as that term is defined in E.O. 13132.

List of Subjects in 50 CFR Part 216

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and record keeping requirements, Seafood, Transportation.

Dated: April 12, 2002.

William T. Hogarth,

Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 216 is proposed to be added as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

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

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Subpart M is added to read as follows:

Subpart M—Taking of Bottlenose Dolphins and Spotted Dolphins Incidental to Oil and Gas Structure Removal Activities

Sec.

216.141 Specified activity and specified geographical region.
216.142 Effective dates.
216.143 Permissible methods of taking; mitigation.
216.144 Prohibitions.
216.145 Requirements for monitoring and reporting.
216.146 Letters of Authorization.
216.147 Renewal of Letters of Authorization.
216.148 Modifications to Letters of Authorization.

Subpart M—Taking of Bottlenose Dolphins and Spotted Dolphins Incidental to Oil and Gas Structure Removal Activities

§ 216.141 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of marine mammals by U.S. citizens engaged in removing oil and gas drilling and production structures in state waters and on the Outer Continental Shelf in the Gulf of Mexico adjacent to the coasts of Texas, Louisiana, Alabama, Mississippi, and Florida. The incidental, but not intentional, taking of marine mammals by U.S. citizens holding a Letter of Authorization is permitted during the course of severing pilings, well conductors, and related supporting structures, and other activities related to the removal of the oil well structure.

(b) The incidental take of marine mammals under the activity identified in paragraph (a) of this section is limited annually to a total of 200 takings by harassment of bottlenose dolphins (*Tursiops truncatus*) and spotted dolphins (*Stenella frontalis and S. attenuata*).

§ 216.142 Effective dates.

Regulations in this subpart are effective from May 1, 2002 through April 31, 2003.

§ 216.143 Permissible methods of taking; mitigation.

(a) The use of the following means in conducting the activities identified in § 216.141 are permissible: Bulk explosives, shaped explosive charges, mechanical or abrasive cutters, and underwater arc cutters.

(b) All activities identified in § 216.141 must be conducted in a manner that minimizes, to the greatest extent practicable, adverse effects on bottlenose dolphins, spotted dolphins, and their habitat. When using explosives, the following mitigation measures must be utilized:

(1)(i) If bottlenose or spotted dolphins are observed within 3,000 ft (910 m) of the platform prior to detonating charges, detonation must be delayed until either the marine mammal(s) are more than 3,000 ft (910 m) from the platform or actions (e.g., operating a vessel in the vicinity of the dolphins to stimulate bow riding, then steering the vessel away from the structure to be removed) are successful in removing them at least 3,000 ft (910 m) from the detonation site;

(ii) Whenever the conditions described in paragraph (b)(1)(i) of this section occur, the aerial survey required under § 216.145(b)(1) must be repeated prior to detonation of charges if the timing requirements of § 216.145(b)(1) cannot be met.

(2) Detonation of explosives must occur no earlier than 1 hour after sunrise and no later than 1 hour before sunset;

(3) If weather and/or sea conditions preclude adequateaerial, shipboard or subsurface surveillance, detonations must be delayed until conditions improve sufficiently for surveillance to be undertaken; and

(4) Detonations must be staggered by a minimum of 0.9 seconds for each group of charges.

§ 216.144 Prohibitions.

Notwithstanding takings authorized by § 216.143 or by a Letter of Authorization issued under § 216.106, the following activities are prohibited:

(a) The taking of a marine mammal that is other than unintentional, except that the intentional passive herding of dolphins from the vicinity of the platform may be authorized under section 109(h) of the Act as described in a Letter of Authorization;

(b) The violation of, or failure to comply with, the terms, conditions, and requirements of this part or a Letter of Authorization issued or renewed under § 216.106 or § 216.146;

(c) The incidental taking of any marine mammal of a species either not specified in this subpart or whenever the taking authorization for authorized species has been reached;

(d) The use of single explosive charges having an impulse and pressure greater than that generated by a 50-lb (22.7 kg) explosive charge detonated outside the rig piling; and

(e) The taking of a marine mammal in water depths greater than 656 ft (200 m).

§ 216.145 Requirements for monitoring and reporting.

(a) Observer(s) approved by the National Marine Fisheries Service in advance of the detonation must be used to monitor the area around the site prior to, during, and after detonation of charges.

(b)(1) Both before and after each detonation episode, an aerial survey by NMFS-approved observers must be conducted for a period not less than 30 minutes within 1 hour of the detonation episode. To ensure that no marine mammals are within the designated 3,000 ft (941 m) safety zone nor are likely to enter the designated safety zone prior to or at the time of detonation, the pre-detonation survey must encompass all waters within one nautical mile of the structure.

(2) A second post-detonation aerial or vessel survey of the detonation site must be conducted no earlier than 48 hours and no later than 1 week after the oil and gas structure is removed, unless a systematic underwater survey, either by divers or remotely-operated vehicles, dedicated to marine mammals and sea turtles, of the site has been conducted within 24 hours of the detonation event. The aerial or vessel survey must concentrate down-current from the structure.

(3) The NMFS observer may waive post-detonation monitoring described in subparagraph (b)(2) of this section provided no marine mammals were sighted during either the required 48 hour pre-detonation monitoring period or during the pre-detonation aerial survey.

(c) During all diving operations (working dives as required in the course of the removals), divers must be instructed to scan the subsurface areas surrounding the platform (detonation) sites for bottlenose or spotted dolphins and if marine mammals are sighted to inform either the U.S. government observer or the agent of the holder of the Letter of Authorization immediately upon surfacing.

(d) In water depths of 492 ft (150 m) or greater, or in cases where divers are not deployed in the course of normal removal operations, a remotely operated vehicle (ROV) must be deployed prior to detonation to scan areas below structures. If marine mammals are sighted by the ROV operator must inform either the U.S. government observer or the agent of the holder of the Letter of Authorization immediately.

(e) In water depths of 328 ft (100 m) or greater, passive acoustic detection must be employed prior to detonation. If marine mammals are sighted by the acoustic detection device, the operator must inform either the U.S. government observer or the agent of the holder of the Letter of Authorization immediately.

(f)(1) A report summarizing the results of structure removal activities, mitigation measures, monitoring efforts, and other information as required by a Letter of Authorization, must be submitted to the Regional Administrator, NMFS, Southeast Region, 9721 Executive Center Drive N, St. Petersburg, FL 33702 within 30 calendar days of completion of the removal of the rig.

(2) NMFS will accept the U.S. government observer report as the activity report if all requirements for

reporting contained in the Letter of Authorization are provided to that observer before the observer's report is complete.

§ 216.146 Letters of Authorization.

(a) To incidentally take bottlenose and spotted dolphins pursuant to these regulations, each company operating or which operated an oil or gas structure in the geographical area described in § 216.141, and which is responsible for abandonment or removal of the platform, must apply for and obtain a Letter of Authorization in accordance with § 216.106.

(b) A copy of the Letter of Authorization must be in thepossession of the persons conducting activities that may involveincidental takings of bottlenose and spotted dolphins.

§ 216.147 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued under § 216.106 for the activity identified in § 216.141 will be renewed annually upon:

(1) Timely receipt of the reports required under § 216.145(d), which have been reviewed by the Assistant Administrator and determined to be acceptable;

(2) A determination that the maximum incidental take authorizations in § 216.141(b) will not be exceeded; and

(3) A determination that the mitigation measures required under § 216.143(b) and the Letter of Authorization have been undertaken.

(b) If a species' annual authorization is exceeded, the Assistant Administrator will review the documentation submitted with the annual report required under § 216.145(d), to determine that the taking is not having more than a negligible impact on the species or stock involved.

(c) Notice of issuance of a renewal of the Letter of Authorization will be published in the **Federal Register**.

§ 216.148 Modifications to Letters of Authorization.

(a) In addition to complying with the provisions of § 216.106, except as provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to the Letter of Authorization issued pursuant to § 216.106 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment. For purposes of this paragraph, renewal of a Letter of Authorization under § 216.147, without modification, is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.141(b), the Letter of Authorization issued pursuant to § 216.106, or renewed pursuant to this section may be substantively modified without prior notice and an opportunity for public comment. A notice will be published in the **Federal Register** subsequent to the action.

[FR Doc. 02–9519 Filed 4–18–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 76
Friday, April 19, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM–02–02]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) is announcing a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: The meeting dates are: May 6, 2002, 8 a.m. to 5 p.m.; May 7, 2002, 8 a.m. to 5 p.m.; and, May 8, 2002, 8 a.m. to 11:30 a.m. Requests from individuals and organizations wishing to make an oral presentation at the meeting are due by the close of business on April 25, 2002.

ADDRESSES: The meeting will take place at the Clarion Inn & Suites Conference Center, The Ballroom (Walnut/Oak Room) 2200 1H–35 South, Austin, Texas. Requests for copies of the NOSB meeting agenda and requests to make an oral presentation at the meeting may be sent to Ms. Katherine Benham at USDA–AMS–TMD–NOP, 1400 Independence Avenue, SW, Room 4008–So., Ag Stop 0268, Washington, DC 20250–0200. Requests to make an oral presentation at the meeting may also be sent electronically to Ms. Katherine Benham at *katherine.benham@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Mathews, Program Manager, National Organic Program, (202) 720–3252.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or handling, to assist in the development of standards for substances to be used in organic production and to advise the Secretary on other aspects of the implementation of OFPA. The NOSB met for the first time in Washington, DC, in March 1992, and currently has five committees working on various aspects of the organic program. The committees are: Accreditation, Crops, Livestock, Materials, and Processing.

In August of 1994, the NOSB provided its initial recommendations for the National Organic Program (NOP) to the Secretary of Agriculture. Since that time, the NOSB has submitted 39 addenda to its recommendations and reviewed more than 210 substances for inclusion on the National List of Allowed and Prohibited Substances. The last meeting of the NOSB was held on October 15–17, 2001, in Washington, D.C.

The Department of Agriculture (USDA) published its final National Organic Program regulation in the **Federal Register** on December 21, 2000 (65 FR 80548). The rule became effective April 21, 2001.

The principal purposes of the meeting are to provide an opportunity for the NOSB to: receive an update from the USDA/NOP, receive various committee reports, receive reports from the Board Policy Task Force and Composting Task Force, and review materials to determine if they should be included on the National List of Allowed and Prohibited Substances.

The Livestock Committee will present for NOSB consideration its recommendations on ''feed ingredients,'' ''dairy animal replacement,'' ''access to outdoors for poultry'' and ''excipients in medications. The Materials Committee will explain the materials review process, report on petitioned materials, and present for NOSB consideration its recommendation on Konjac Flour. The Materials Committee will also present 11 materials for possible inclusion on the National List of Allowed and Prohibited Substances. The Processing Committee will discuss clarification of Section 205.606—Natural Flavors, and review guidelines/comments for determining which processing technologies require review by NOSB. The Processing Committee will also present for NOSB consideration its recommendations on documentation requirements regarding the nonuse of prohibited substances and compliance with National List annotations, and GRAS materials as inerts. The Crops committee will present for NOSB consideration its recommendations on composting, hydroponic production, organic planting stock and transitional products. The Accreditation Committee will lead discussions on grower group certification criteria, accreditation complaint procedures, and certifying agent issues. Finally, the International Committee will discuss a proposed recommendation on US/EU Equivalency.

Materials to be reviewed at the meeting by the NOSB are as follows: for Crop Production: Calcium Oxide, Calcium Hydroxide, Potassium Sorbate, Sodium Proprionate and Sodium Nitrate; for Crops and Livestock Production: Spinosad; and for Processing: Gelatin, Dewaxed Flake Shellak, Calcium Stearate, Diethylaminoethanol, and Glycerol Monoleate.

For further information, *see http://www.ams.usda.gov/nop.* Copies of the NOSB meeting agenda can be requested from Ms. Katherine Benham by telephone at (202) 205–7806; or by accessing the NOP Web site at *http://www.ams.usda.gov/nop.*

The meeting is open to the public. The NOSB has scheduled time for public input on Monday, May 6, 2002, from 8:45 a.m. until 10:45 a.m.; and Wednesday, May 8, 2002, from 10 a.m. until 11 a.m., at the Clarion Inn & Suites Conference Center, The Ballroom (Walnut/Oak Room), 2200 IH–35 South, Austin, Texas. Individuals and organizations wishing to make an oral presentation at the meeting may forward their request by facsimile to Ms. Katherine Benham at (202) 205–7808. While persons wishing to make a presentation may sign up at the door, advance registration will ensure that a person has the opportunity to speak during the allotted time period and will help the NOSB to better manage the meeting and to accomplish its agenda. Individuals or organizations will be given approximately 5 minutes to present their views. All persons making an oral presentation are requested to provide their comments in writing.

Written submissions may contain information other than that presented at the oral presentation.

Written comments must be submitted to Ms. Benham at the above address prior to or after the meeting. Written comments may also be submitted at the meeting. Persons submitting written comments at the meeting are asked to provide 30 copies.

Interested persons may visit the NOSB portion of the NOP Web site *http://www.ams.usda.gov/nop* to view available documents prior to the meeting. Approximately 6 weeks following the meeting interested persons will be able to visit the NOSB portion of the NOP website to view documents from this meeting.

Dated: April 12, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–9576 Filed 4–18–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Public Meetings of Advisory Committee on Beginning Farmers and Ranchers

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of public meetings.

SUMMARY: The Farm Service Agency (FSA) is issuing this notice to advise the public that meetings of the Advisory Committee on Beginning Farmers and Ranchers (Committee) will be held to discuss various beginning farmer issues, including recommendations drafted at last year's meetings.

DATES: The public meetings will be held May 6–7, 2002. The first meeting on May 6, 2002, will start at 1 p.m. and end at 5 p.m. On May 7, 2002, the meeting will begin at 8 a.m. and end by 4 p.m. All meetings will be held at the Adams Mark Hotel, Fourth and Chestnut, St. Louis, Missouri, telephone (314) 241–7400. All times noted are Central Standard Time (CST).

ADDRESSES: Mark Falcone, Designated Federal Official for the Advisory Committee on Beginning Farmers and Ranchers, Farm Service Agency, U.S. Department of Agriculture, 1400 Independence Avenue, SW, STOP 0522, Washington, DC 20250–0522; telephone (202) 720–1632; FAX (202) 690–1117; e-mail mark_falcone@wdc.usda.gov.

FOR FURTHER INFORMATION CONTACT: Mark Falcone at (202) 720–1632.

SUPPLEMENTARY INFORMATION: Section 5 of the Agricultural Credit Improvement Act of 1992 (Pub. L. 102–554) required the Secretary of Agriculture to establish the Committee for the purpose of advising the Secretary on the following:

(1) The development of a program of coordinated financial assistance to qualified beginning farmers and ranchers required by section 309(i) of the Consolidated Farm and Rural Development Act (Federal and State beginning farmer programs provide joint financing to beginning farmers and ranchers); (2) methods of maximizing the number of new farming and ranching opportunities created through the program; (3) methods of encouraging States to participate in the program; (4) the administration of the program; and (5) other methods of creating new farming or ranching opportunities.

Departmental Regulation 1042–119 dated January 15, 2001, formally established the Committee and designated FSA to provide support. The Committee meets at least once a year and all meetings are open to the public. The duration of the Committee is indefinite.

Earlier meetings of the Committee, held August 31–September 2, 1999, April 11–12, 2000, and June 19–20, 2001, provided an opportunity for members to exchange ideas on ways to increase opportunities for beginning farmers and ranchers through Federal-State partnerships and to encourage more State participation. Members discussed various issues and drafted numerous recommendations, which were provided to the Secretary. Many of last year's recommendations were included in the proposed 2002 Farm Bill, which members will discuss, along with other issues that were tabled at last year's meetings.

Attendance is open to all interested persons but limited to space available. Anyone wishing to make an oral statement should submit their request in writing (letter, fax, or e-mail) to Mark Falcone at the above address. Statements should be received no later than May 1, 2002. Requests should include the name and affiliation of the individual who will make the presentation and an outline of the issues to be addressed. The floor will be open to oral presentations beginning at 1:00 p.m. CST on May 7, 2002. Comments will be limited to 5 minutes, and presenters will be approved on a first-come, first-served basis.

Persons with disabilities who require special accommodations to attend or participate in the meetings should contact Mark Falcone by May 1, 2002.

Signed in Washington, DC, on April 12, 2002.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 02–9735 Filed 4–17–02; 1:29 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Request for Applications (RFA): Crop Insurance Education and Information Programs for Farmers and Ranchers in Targeted States

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Announcement of availability of funds and request for applications under the Federal Crop Insurance Education and Information Programs for Farmers and Ranchers in Targeted States.

SUMMARY: In accordance with section 524 of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC) announces the availability of approximately $2 million for cooperative agreements that will be used to establish crop insurance education and information programs in fifteen States that have been determined to have low participation or are underserved by the crop insurance program. Funding will be limited to a maximum of one project in each of the fifteen States. Awards, on a competitive basis, will be for a period of up to one year. This announcement lists the information needed to submit an application for these funds.

CLOSING DATES: The closing date and time for receipt of applications is 5 p.m. EST on June 3, 2002. The agency will not consider applications received after the deadline.

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact: Lydia Astorga, USDA–RMA–RME, 1400 Independence Ave. SW., Stop 0808, (Portals Bldg., Suite 508), Washington, DC 20250–0808, phone: 202–260–4728, fax: 202–690–3605, e-mail: *Lydia_Astorga@wdc.usda.gov.* You may also obtain information regarding this announcement from the RMA Web site at: *www.rma.usda.gov.*

Applicants may download an applications package from the Risk Management Agency (RMA) Web site at: *www.rma.usda.gov.* Applicants may also request an application package from: Lydia Astorga, USDA-RMA-RME, 1400 Independence Ave. SW., Stop 0808, (Portals Bldg., Suite 508),

Washington, DC 20250–0808, phone: 202–260–4728, fax: 202–690–3605, e-mail: *Lydia_Astorga@wdc.usda.gov.*

Applicants are strongly encouraged to submit completed and signed application packages using overnight mail or delivery service to ensure timely receipt by the USDA. The applicable address for such submissions is: RME Cooperative Agreement Program, c/o Lydia Astorga, USDA–RMA–RME, 1250 Maryland Ave. SW., Suite. 508, Washington, DC 20024.

Completed and signed application packages sent via the U.S. Postal Service must be sent to the following address: RME Cooperative Agreement Program, c/o Lydia Astorga, USDA–RMA–RME, 1400 Independence Ave. SW., Stop 0808, (Portals Bldg. Suite 508), Washington, DC 20250–0808.

Paperwork Reduction Act

Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 25), the collection of information requirements contained in this announcement have been approved under OMB Document Nos. 0348–0043, 0348–0044, and 0348–0046. The Catalog of Federal Domestic Assistance Number for this program is 10.450.

SUPPLEMENTARY INFORMATION: This program announcement consists of six parts:

Part I—General Information
A. Authority
B. Background
C. Project Goals
D. Purpose
Part II—Program Objectives and Requirements
A. Eligible Applicants
B. Project Period
C. Availability of Funds and Amounts
Part III—Program Description
A. Recipient Activities
B. RMA Activities
Part IV—Preparation of an Application
A. Program Application Materials
B. Content of Applications
C. Submission of Applications
D. Acknowledgement of Applications
Part V—Review Process
A. General
B. Evaluation Criteria and Weights
C. Confidentiality
Part VI—Additional Information
A. Access to Panel Review Information
B. Notification of Cooperative Agreement Awards
C. Confidential Aspects of Proposals and Awards
D. Reporting Requirements
E. Audit Requirements
F. Prohibitions and Requirements with Regard to Lobbying

Part I—General Information

A. Authority

This program is authorized under section 524(a)(2) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)(2)).

B. Background

FCIC is committed to meeting the crop insurance needs of the nation's farmers and ranchers. It does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new crop insurance products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation in underserved communities, and providing crop insurance education and information.

FCIC's educational mission was strengthened significantly with the enactment of section 524 of the Act. This section increases the funding for educational and outreach efforts in States that have historically been underserved by Federal crop insurance program. In accordance with section 524 of the Act, the Secretary of Agriculture determined that the fifteen States that met the criteria for ''underserved'' were Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Massachusetts, New York, New Jersey, Delaware, Maryland, Pennsylvania, West Virginia, Utah, Nevada, and Wyoming. These states are collectively referred to as the ''Targeted States.''

C. Project Goals

The goals of these educational projects if to provide farmers and ranchers with urgently needed training and information to be able to understand:

- The kinds of risks addressed by Federal crop insurance and other risk management tools;
- The types of existing and emerging crop insurance products available;
- How the use of crop insurance can help them manage risk; and
- How the use of crop insurance can affect other risk management decisions, such as the use of marketing and financial tools.

D. Purpose

The purpose of this program is to ensure that farmers and ranchers in the Targeted States take full advantage of existing and emerging Federal crop insurance products and other risk management tools. Each cooperative agreement awarded through this program will provide the recipient with funds, guidance, and the substantial involvement of the Risk Management Agency (RMA) to carry out a crop insurance education and information program in a Targeted State.

For some farms in Targeted States, existing Federal crop insurance products are either not available or need significant enhancements to provide effective protection. The 2000 Act envisions new and enhanced insurance products that will meet the needs of an increased number of farmers and ranchers. Until these new products are available, producers would still benefit from crop insurance education to provide a solid foundation of knowledge for when such products envisioned in the 2000 Act will be offered.

The ideal time to reach producers with education programs in most Targeted States is after harvesting has ended and before spring plantings begin—roughly a period of November through March. Therefore, this announcement anticipates that educational activities directed towards producers will be planned mostly for the November, 2002 through March, 2003 period. However, it does not limit educational activities to this time period. To reach producers during the peak educational period, it is anticipated that project leaders will need sufficient lead-time to organize and schedule events, commit funds to reserve event facilities, gather materials, raise awareness, and otherwise make the preparations needed to ensure producer participation. Most of all, project leaders need time to foster the cooperation and active support of organizations with close ties to local producers. The cooperation of such organizations is essential in influencing local producers to participate in the type of activities envisioned in this educational program.

Part II—Program Objectives and Requirements

A. Eligible Applicants

Eligible applicants include State departments of agriculture, State land-grant universities, non-profit agricultural organizations, and other public or private organizations with the local experience needed to lead an educational program for farmers and ranchers within the Targeted States. Applicants may apply to deliver education in more than one State, but a separate application must be submitted for each State. Applications for projects directed to producers outside of the Targeted States will not be considered for funding.

B. Project Period

Funding will be limited to a maximum of one project for each Targeted State. Each project will be funded for a period of up to one year for the activities described in this announcement.

C. Availability of Funds and Amounts

Approximately $2,000,000 is available in fiscal year 2002 to fund up to 15 projects, a maximum of one project for each of the Targeted States. It is expected that the awards will be made [30 days after application deadline] The maximum funding amount available for each Targeted State's project is as follows:

Maine	$102,000
New Hampshire	77,000
Vermont	103,000
Connecticut	99,000
Rhode Island	70,000
Massachusetts	94,000
New York	276,000
New Jersey	117,000
Pennsylvania	342,000
Maryland	167,000
Delaware	115,000
West Virginia	93,000
Nevada	89,000
Utah	132,000
Wyoming	124,000
Total	2,000,000

These project funding maximums were determined by first allocating approximately half the funds by providing an equal amount of $67,667 to each Targeted State. The remaining funds were allocated on a *pro rata* basis according to each Targeted State's share of 1999 agricultural cash receipts relative to the total for all Targeted States. The totals of both allocations for each Targeted State were then rounded to the nearest $1,000.

Part III—Program Description

In conducting activities to achieve the purpose and goals of this program, the applicant will be responsible for the activities listed under paragraph A of this part. RMA will provide substantial technical assistance on the presentation and dissemination of Federal crop insurance information and will be specifically responsible for the activities listed under paragraph B.

A. Recipient Activities

The applicant will be required to perform the following activities:

1. Assemble a crop insurance curriculum for the producers in the Targeted State. This will include: (a) Gathering existing instructional materials that meet the local crop insurance needs of agricultural producers; (b) identifying instructional gaps in existing materials; and (c) developing new materials or modifying existing materials to fill existing gaps.

2. Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other informational dissemination techniques that are designed to: (a) Raise awareness for crop insurance; (b) inform producers of the availability of crop insurance and (c) inform producers of the educational curriculum being offered.

3. Deliver education and information to agribusiness professionals. This will include organizing and delivering training to those agribusiness professionals in the Targeted States that have frequent opportunities to advise farmers and to those individuals that will directly train producers under this program.

4. Organize and deliver the education curriculum developed in subparagraph (1) to agricultural producers in the Targeted States. This will include organizing and delivering the curriculum through trained instructors to local farmers and ranchers in the Targeted States.

5. Use a program logo and design provided by RMA for all instructional and promotional material.

6. Document all education and preparatory activities done and the results of such activities under the cooperative agreement, state the evaluation criteria to be used to determine whether the educational program was a success, and work with an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

7. Create and implement a program delivery plan that contains each of the tasks to be performed to accomplish all the goals and responsibilities under this announcement, the manner in which task and goal will be accomplished, including RMA's role and responsibilities, and the dates by which such tasks will be completed.

B. RMA Activities

RMA will be responsible for the following activities:

1. Collaborate on organization of the crop insurance education curriculum developed by the applicant for producers in the Targeted State. This will include: (a) Serving on curriculum development workgroups; (b) providing curriculum developers with fact sheets and other crop insurance publications from RMA; (c) advising the applicant on the materials available over the internet through the AgRisk Education Library; (d) advising the applicant on technical issues related to crop insurance instructional materials; (e) advising the applicant on the use of the standardized design and layout formats to be used on program materials; and (f) reviewing and approving in advance all educational materials for technical accuracy.

2. Collaborate on a promotional program for raising awareness on crop insurance and for informing producers of educational opportunities in the Targeted States. This will: (a) Serving on workgroups that plan promotional programs; (b) advising the applicant on technical issues relating to the presentation of crop insurance products in promotional materials; (c) participating, as appropriate, in media programs designed to raise general awareness or provide farmers with crop insurance education; and (d) reviewing and approving in advance all promotional plans, materials, and programs.

3. Collaborate on the organization and delivery of training to agribusiness leaders and producer trainers. This would include: (a) Advising the applicant on technical issues related to the delivery of crop insurance education and information to agribusiness professionals; (b) assisting the applicant in informing crop insurance professionals about agribusiness training plans and scheduled meetings; (c) participating, in the presentation of training to agribusiness professionals; and (d) reviewing and approving in advance all agribusiness training plans.

4. Collaborate on the organization and delivery of crop insurance education to agricultural producers. This will include: (a) Advising the applicant on technical issues relating to the delivery of crop insurance education and information to farmers and ranchers; (b) assisting the applicant in informing crop insurance professionals about farmer and rancher training activities; and (c) reviewing and approving in advance all producer training plans.

In addition to the specific activities listed above, the applicant may suggest other activities that would contribute directly to the purpose of this program. For any additional activity suggested, the applicant should identify specific ways in which RMA could have substantial involvement in that activity.

Part IV—Preparation of an Application

A. Program Application Materials

Program application materials under this announcement may be downloaded from the RMA Web site at: *www.rma.usda.gov.* Applicants may also request application materials from:

Lydia Astorga, USDA–RMA–RME, 1400 Independence Ave. SW., Stop 0808, (Portals Bldg., Suite 508), Washington, DC 20250–0808, phone: (202) 260–4728, fax: (202) 690–3605, e-mail: *Lydia_Astorga@wdc.usda.gov.*

B. Content of Applications

A complete and valid application package must include the following:

1. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance''.
2. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs''.
3. A written narrative (limited to 10 single-sided pages) that describes the educational project, the program delivery plan, the evaluation criteria to determine whether the program was successful, and provides reviewers with sufficient information to effectively evaluate the application under the criteria contained in Part V.
4. An Appendix containing any attachments that may support information in the narrative (Optional)
5. A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''

C. Submission of Applications

An original and two copies of the completed and signed application must be submitted in one package at the time of initial submission.

All applications must be submitted by the deadline. Applications that do not meet all the requirements in this announcement are considered as late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated above for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. The address must appear on the envelope or package containing the application with the note ''Attention: Crop Insurance Education and Information Program.''

Mailed applications will be considered meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated above for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Service should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington DC area now requires. RMA cannot accommodate transmissions of applications by facsimile or through other electronic media. Therefore, applications transmitted electronically will not be accepted regardless of the date or time of submission or the time of receipt.

D. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter.

When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An applications identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 60 days of the submission deadline, the applicant should contact Lydia Astorga at (202) 260–4728.

Part V—Review Process

A. General

Each application will be evaluated using a two-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement sorted by the Targeted State in which the applicant proposes to deliver crop insurance education and information. Each application that meet the deadlines and are in conformance with all requirements in this announcement will be reviewed competitively.

Second, a review panel will consider the merits of applications that pass the initial screen. The panel for each application will be comprised of not less than three independent reviewers from USDA, other federal agencies, and others representing public and private organizations, as needed. The narrative, and any appendixes, provided by each applicant will be used by the review panel to evaluate the merits of the project that is being proposed for funding. The panel will examine, rank, and score applications in each Targeted State based on the ''Evaluation Criteria and Weights'' contained in this paragraph B of this part. Each Targeted State's applications will be evaluated, ranked, and scored independently.

Applications will be evaluated in each of the five criteria listed below and the top five applications for each Targeted State will be ranked one through five, with one being the highest, for each category. Each criteria has specific elements that the panel will look at when evaluating the applications and ranking them. A specific number of points are assigned to each of the top five rankings. The numerical scored will be supported by explanatory statements on the formal rating form describing the major strengths and weaknesses under each applicable criteria contained in paragraph B of this part.

After evaluating each of the applications, the scores for each reviewer on the panel will be averaged for each criterion. After the scores for each criterion have been averaged, they will be totaled together to determine the final score. This ranking scheme assumes that at least five applications are available for evaluation in each Targeted State. If less than five applications are available for a Targeted State, then for each criterion, reviewers will assign the available applications to one of the five available ranking slots with its associated score, according to the application's merits with respect to that criterion. If the final score of the highest rated application for a Targeted State is less that 50, the panel may, at its discretion, recommend not funding the application.

After all applications have been rated, ranked, and scored, a lottery will be used to resolve any instances of a tie total score for the winning application for a given State. If such a lottery is required for a given Targeted State, the names of all tied applicants will be entered into a drawing. The first applicant drawn will be recommended to receive a cooperative agreement for that Targeted State.

The review panel will report to the Manager of FCIC on the results from each Targeted State. The panel's report will include the recommended applicant to receive a cooperative agreement. If the final score of the highest rated application for a Targeted State is less that 50, the panel may, at its discretion, recommend not funding the application. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

B. Evaluation Criteria and Weights

Applications will be evaluated according to the following criteria:

1. Management—maximum 15 points

The applicant must demonstrate their ability to implement sound and effective management practices and have the organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the Targeted State. If they have been recipients of other Federal or other government grants, cooperative agreements, or contracts, the applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. Applicants that will employ, or have access to, personnel who have experience in directing agricultural programs or providing educations programs that benefit producers in the Targeted State will receive higher rankings.

The application ranking and scoring for each Targeted State for the Management criteria are:

Ranking	Scoring
Highest	15 points.
2nd Highest	12 points.
3rd Highest	9 points.
4th Highest	6 points.
5th Highest	3 points.

2. Partnering—maximum 25 points

The applicant must demonstrate experience and capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agricultural leaders to carry out a local program of crop insurance education and information in the Targeted State. Applicants that can demonstrate and document that partnership commitments are in place for the express purpose of delivering the program in this announcement will receive higher rankings than applicants that cannot demonstrate existing partnerships. Moreover, applicants with existing partnerships reaching a broader group of farmers and ranchers will be ranked higher than those with more limited partnerships.

The application ranking and scoring for each Targeted State for the Partnering criteria are:

Ranking	Scoring
Highest	25 points.
2nd Highest	20 points.
3rd Highest	15 points.
4th Highest	10 points.
5th Highest	5 points.

3. Goals and Objectives—maximum 25 points

For each of the applicant's responsibilities contained in part III, the applicant must demonstrate that it can establish specific goals, tasks, and time lines that further the purpose of this program. Applicants will obtain a higher ranking to the extent that the goals envisioned for each task of the project are specific, measurable, realistic, have specific time frames for completion, and relate directly to the required activities and program objectives described in this announcement.

The application ranking and scoring for each State for the Goals and Objectives criteria are:

Ranking	Scoring
Highest	25 points.
2nd Highest	20 points.
3rd Highest	15 points.
4th Highest	10 points.
5th Highest	5 points.

4. Cost Effectiveness—maximum 20 points

The applicant must demonstrate that the direct and indirect crop insurance education benefits to farmers and ranchers in the Targeted State warrant the funding requested. Applicants will be ranked according to the extent to which they can effectively demonstrate that the quantity and quality of the crop insurance education and information received by producers during the project is maximized relative to the requested funding. Expected educational benefits can be estimated both directly (through the hours of educational activities planned specifically for agricultural producers and the expected number of producers to be reached) and indirectly (through educational activities planned for agribusiness professionals who will relay information to producers). Higher rankings in each Targeted State will be awarded to those applicants with greater expected benefits for producers relative to the funds that are requested by the applicant.

The application ranking and scoring for each State for the Cost Effectiveness criteria are:

Ranking	Scoring
Highest	20 points.
2nd Highest	16 points.
3rd Highest	12 points.
4th Highest	8 points.
5th Highest	4 points.

5. Program Delivery Plan—maximum 15 points

The applicant must demonstrate that its program delivery plan will be effective. Higher rankings will be given to those applicants that can demonstrate that it has an effective plan for each of the required responsibilities contained in part III. Also, those applicants that can demonstrate that its plan can be expected to lead to increased risk awareness of crop insurance by agribusiness professionals and producers in the Targeted State will receive higher rankings.

The application ranking and scoring for each State for the Program Delivery Plan criteria are:

Ranking	Scoring
Highest	15 points.
2nd Highest	12 points.
3rd Highest	9 points.
4th Highest	6 points.
5th Highest	3 points.

The names of applicants, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application.

Part VI—Additional Information

A. Access to Panel Review Information

Copies of rating forms, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

B. Notification of Cooperative Agreement Awards

Following approval of the applications selected for funding, notice of project approval and authority to draw down funds will be made to the selected applicants in writing. Within the limit of funds available for such purpose, the awarding official of RMA shall enter into cooperative agreements with those applicants whose applications are judged to be most meritorious under the procedures set forth in this announcement, which provides the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project. The effective date of the cooperative agreement shall be the date the agreement is executed by

both parties it shall remain in effect for not more that one year. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved application and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied, as a result of any award made as a result of this announcement.

C. Confidential Aspects of Proposals and Awards

When an application results in a cooperative agreement, it becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application. The original copy of a proposal that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the express written consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to award.

D. Reporting Requirements

The applicants awarded the cooperative agreement will be required to submit semi-annual progress and financial reports (SF–269) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

E. Audit Requirements

The applicants awarded the cooperative agreement are subject to audit.

F. Prohibitions and Requirements with Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective recipients, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires recipients and any subcontractors (1) To certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients of their subcontractors will pay with profits or other nonappropriated funds on or after December 22, 1989; ad (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available from Lydia Astorga at the above stated address and telephone number.

Signed in Washington, DC, on April 15, 2002.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 02–9616 Filed 4–18–02; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Request for Applications (RFA): Targeted Commodity Partnerships for Risk Management Education

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Announcement of availability of funds and request for applications under the Targeted Commodity Partnerships for Risk Management Education Program.

SUMMARY: In accordance with section 522 of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC) announces the availability of approximately $2 million for partnership agreements that will fund risk management training and informational activities, with a priority for reaching agricultural producers of agricultural commodities currently covered by section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333); specialty crops; and underserved commodities (collectively referred to as ''Targeted Commodities''). The maximum funding available to any recipient of a partnership agreement award will be $100,000. Recipients of awards must demonstrate non-financial benefits from a partnership agreement and must agree to substantial involvement of RMA in the project. This announcement lists the information needed to submit an application for these funds.

CLOSING DATES: The closing date and time for receipt of applications is 5 p.m. EST on June 3, 2002. The agency will not consider applications received after the deadline.

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact: Lydia Astorga, USDA–RMA–RME, 1400 Independence Ave. SW., Stop 0808, (Portals Bldg., Suite 508), Washington, DC 20250–0808, phone: (202) 260–4728, fax: (202) 690–3605, e-mail: *Lydia_Astorga@wdc.usda.gov*. You may also obtain information regarding this announcement from the RMA website at: *www.rma.usda.gov*.

Applicants may download an applications package from the Risk Management Agency (RMA) website at: *www.rma.usda.gov*. Applicants may also request an application package from: Lydia Astorga, USDA–RMA–RME, 1400 Independence Ave. SW., Stop 0808, (Portals Bldg., Suite 508), Washington, DC 20250–0808, phone: 202–260–4728, fax: 202–690–3605, e-mail: *Lydia_Astorga@wdc.usda.gov.*

Applicants are strongly encouraged to submit completed and signed application packages using overnight mail or delivery service to ensure timely receipt by the USDA. The applicable address for such submissions is: RME Cooperative Agreement Program, c/o Lydia Astorga, USDA–RMA–RME, 1250 Maryland Ave. SW., Suite 508, Washington, DC 20024.

Completed and signed application packages sent via the U.S. Postal Service must be sent to the following address: RME Cooperative Agreement Program, c/o Lydia Astorga, USDA–RMA–RME, 1400 Independence Ave. SW, Stop 0808, (Portals Bldg. Suite 508), Washington, DC 20250–0808.

Paperwork Reduction Act

Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 25), the collection of information requirements contained in this announcement have been approved under OMB Document Nos. 0348–0043, 0348–0044, and 0348–0046.

The Catalog of Federal Domestic Assistance Number for this program is 10.450.

SUPPLEMENTARY INFORMATION: This program announcement consists of six parts:

Part I—General Information
A. Authority
B. Background
C. Project Goals
D. Purpose
Part II—Program Objectives and Requirements
A. Eligible Applicants
B. Project Period
C. Availability of Funds and Amounts
Part III—Program Description
A. Recipient Activities
B. RMA Activities
Part IV—Preparation of an Application
A. Program Application Materials
B. Content of Applications
C. Submission of Applications
D. Acknowledgement of Applications
Part V—Review Process
A. General
B. Evaluation Criteria and Weights
C. Confidentiality
Part VI—Additional Information
A. Access to Panel Review Information
B. Notification of Partnership Agreement Awards
C. Confidential Aspects of Proposals and Awards
D. Reporting Requirements
E. Audit Requirements
F. Prohibitions and Requirements with Regard to Lobbying

Part I—General Information

A. Authority

This program is authorized under section 522(d)(3)(F) of the Federal Crop Insurance Act (7 U.S.C. 1522(d)(3)(F)).

B. Background

FCIC is committed to meeting the risk management needs of the nation's farmers and ranchers. It does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information.

FCIC's educational mission was strengthened significantly with the enactment of section 522(d)(3)(F) of the Act. This section increases the funding for training and other informational efforts through the formation of partnerships with public and private organizations for the purpose of establishing risk management training and informational programs for agricultural producers. A priority is to be given to partnerships designed to reach producers of Targeted Commodities. An ''agricultural commodity,'' as used in this announcement, means wheat, cotton, fax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species (including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment), or any other agricultural commodity, excluding stored grain, determined by the Board of the Federal Crop Insurance Corporation, or any one or more of such commodities, as the context may indicate.

C. Project Goals

The goals of these educational projects if to provide farmers and ranchers with urgently needed training and information to be able to:

- Identify the risk management tools that are available for their commodities;
- Know where to obtain the risk management tools;
- Understand how each risk management tool operates; and
- Select the risk management tools that best meet the risk management needs.

D. Purpose

Each partnership agreement awarded through this program will provide the applicant with funds, guidance, and the substantial involvement of the Risk Management Agency (RMA) to carry out a risk management education program for the producers or commodities identified above. The purpose of this program: ''to provide producers with training and informational opportunities so that the producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools.''

The ideal time to reach producers with training and informational programs is after harvesting has ended and before spring plantings begin—roughly a period of November through March. Therefore, this announcement anticipates that training and informational activities directed towards producers will be planned mostly for the November 2002 through March 2003 period. However, it does not limit training and informational activities to this time period. To reach producers during the peak period, it is anticipated that project leaders will need sufficient lead-time to organize and schedule events, commit funds to reserve event facilities, gather materials, raise awareness, and otherwise make the preparations needed to ensure producer participation. Most of all, project leaders need time to foster the cooperation and active support of organizations with close ties to local producers. The cooperation of such organizations is essential in influencing local producers to participate in the type of activities envisioned in this educational program.

Part II—Program Objectives and Requirements

A. Eligible Applicants

Eligible applicants include State departments of agriculture, State land-grant universities, non-profit agricultural organizations, and other public or private organizations with the local experience needed to lead an educational program for farmers and ranchers in any area of the United States or Puerto Rico. Applicants must have demonstrated capabilities in developing and implementing risk management and marketing options for Targeted Commodities. Applicants must also be able to demonstrate that they will receive a non-financial benefit as a result of a partnership agreement. Non-financial benefits must be to the applicant, not the agricultural community, and must include more than the ability to provide employment. The applicant must demonstrate that performance under the partnership agreement will further the specific mission of the applicant (such as providing research or activities necessary for graduate or other students to complete their educational program) or increase the knowledge base of the farmers and ranchers that are served by the applicant and thereby decreasing the risk of loss to the applicant (such as applicants who provide goods or services to farmers or ranchers and would be adversely affected if the farmer or ranchers did not have adequate risk protection).

B. Project Period

Each project will be funded for a period of up to one year for the activities described in this announcement.

C. Availability of Funds and Amounts

Approximately $2,000,000 is available in fiscal year 2002 to fund partnership agreements. The maximum for any partnership agreement award will be $100,000. It is expected that the awards will be made 30 days after application deadline.

To ensure that this program gives priority to the risk management training of those producers identified above and

to ensure that the program reaches a geographically diverse set of agricultural producers, each application will be assigned to one of ten regions for evaluation and consideration for funding. These ten regions correspond to the areas serviced by RMA's ten Regional Offices. An amount has been assigned to each region to serve as a guide for determining the amount of awards that will be funded in each region. The approximate funding amounts available for distribution by RMA Regional Office (with the States serviced by each Office) is as follows:

Billings, MT (MT, WY, ND, SD)	$125,000
Davis, CA (CA, HI, NV, UT, AZ)	500,000
Jackson, MS (MS, AR, LA, TN, KY)	125,000
Oklahoma City, OK (OK, TX, NM)	175,000
Raleigh, NC (NC, VA, WV, MD, DE, NJ, PA NY, VT, CT, RI, MA, NH ME)	125,000
Spokane, WA (WA, OR, ID, AK)	250,000
Springfield, IL (IL, IN, MI, OH)	175,000
St. Paul, MN (MN, WI, IA)	125,000
Topeka, KS (KS, MO, NE, CO)	125,000
Valdosta, GA (GA, AL, SC, FL, Puerto Rico)	275,000
Total	2,000,000

The funding maximums for each region was determined by first distributing half the available funding by allocating $100,000 to each region. The remaining funds were allocated on a pro rata basis according to each regions estimated share of 1999 agricultural cash receipts for Targeted Commodities. The allocation by region also accounts for the fact that funding is also being provided for a crop insurance education program in fifteen States identified by the Secretary as underserved, which includes Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Massachusetts, New York, New Jersey, Delaware, Maryland, Pennsylvania, West Virginia, Utah, Nevada, and Wyoming. The totals of both allocations are rounded to the nearest $25,000.

If there are insufficient number of proposals in a region such that the requested funding does not hit the maximum amount available, the excess funds may be provided to other regions where the proposals received exceeds the maximum amount available. If RMA determines that certain proposals should be funded but the total requested funds under such proposals exceed the maximum amount available, RMA my request that each proposal accept a reduction in funds on a pro rata basis such that the total amount of funding requests does not exceed the maximum amount available.

Part III—Program Description

In conducting activities to achieve the purpose and goals of this program, the applicant will be responsible for the activities listed under paragraph A of this part. RMA will provide substantial technical assistance on the presentation and dissemination of Federal crop insurance information and will be specifically responsible for the activities listed under paragraph B.

A. Recipient Activities

The applicant will be required to perform the following activities:

1. Assemble a risk management curriculum for producers. This will include: (a) Gathering existing instructional materials that meet the local needs of agricultural producers of agricultural commodities; (b) identifying gaps in existing instructional materials; and (c) developing new materials or modifying existing instructional materials to fill existing gaps.

2. Develop and conduct a promotional program. This program will include activities using media, newsletters, publications, or other informational dissemination techniques that are designed to: (a) Raise awareness for risk management; (b) inform producers of the availability of risk management tools; and (c) inform producers of training and informational opportunities.

3. Deliver education and information to agribusiness professionals. This will include organizing and delivering training to those agribusiness professionals that have frequent opportunities to advise farmers of agricultural commodities and to those individuals that will directly train producers under this program.

4. Organize and deliver risk management training and informational opportunities developed in paragraph (1) to agricultural producers of agricultural commodities. This will include organizing and delivering training through trained instructors to local farmers and ranchers.

5. Use a program logo and design provided by RMA for all instructional and promotional material.

6. Document all education and preparatory activities done and the results of such activities under the partnership agreement, state the evaluation criteria to be used to determine whether the educational program was a success, and work with an RMA-selected contractor to evaluate all educational activities and advise RMA as to the effectiveness of activities.

7. Create and implement a program delivery plan that contains each of the tasks to be performed to accomplish all the goals and responsibilities under this announcement, the manner in which task and goal will be accomplished, including RMA's role and responsibilities, and the dates by which such tasks will be completed.

B. RMA Activities

RMA will be responsible for the following activities:

1. Collaborate on organization of a risk management curriculum developed by the applicant for producers of agricultural commodities. This will include: (a) Serving on curriculum development workgroups; (b) providing curriculum developers with fact sheets and other crop insurance publications from RMA; (c) advising the applicant on the materials available over the internet through the AgRisk Education Library; (d) advising the applicant on technical issues related to crop insurance instructional materials; (e) advising the applicant on the use of the standardized design and layout formats to be used on program materials; and (f) reviewing and approving in advance all educational materials for technical accuracy.

2. Collaborate on a promotional program for raising awareness for risk management and for informing producers of agricultural commodities of training and informational opportunities. This will include: (a) serving on workgroups that plan promotional programs; (b) advising the applicant on technical issues relating to the presentation of crop insurance products in promotional materials; (c) participating, as appropriate, in media programs designed to raise general awareness or provide farmers with risk management education; and (d) reviewing and approving in advance all promotional plans, materials, and programs.

3. Collaborate on the organization and delivery of training to agribusiness leaders and producer trainers. This will include: (a) Advising the applicant on technical issues related to the delivery of crop insurance education and information to agribusiness professionals; (b) assisting the applicant in informing crop insurance professionals about agribusiness training plans and scheduled meetings; (c) participating in the presentation of training to agribusiness professionals; and (d) reviewing and approving in advance all agribusiness training plans.

4. Collaborate on the organization and delivery of risk management education to agricultural producers. This would

include: (a) advising the applicant on technical issues relating to the delivery of crop insurance education and information to farmers and ranchers; (b) assisting the applicant in informing crop insurance professionals about farmer and rancher training activities; and (c) reviewing and approving in advance all producer training plans.

In addition to the specific activities listed above, the applicant may suggest other activities that would contribute directly to the purpose of this program. For any additional activity suggested, the applicant should identify specific ways in which RMA could have substantial involvement in that activity.

Part IV—Preparation of an Application

A. Program Application Materials

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A complete and valid application package must include the following:

1. A completed and signed OMB Standard Form 424, ''Application for Federal Assistance''.
2. A completed and signed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs''.
3. A written narrative (limited to 10 single-sided pages) that describes the educational project, the program delivery plan, the evaluation criteria to determine whether the program was successful, and provides reviewers with sufficient information to effectively evaluate the application under the criteria contained part V.
4. An Appendix containing any attachments that may support information in the narrative (Optional)
5. A statement of the non-financial benefits of any partnership agreement.
6. A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''

C. Submission of Applications

An original and two copies of the completed and signed application must be submitted in one package at the time of initial submission.

All applications must be submitted by the deadline. Applications that do not meet all of the requirements in this announcement are considered as late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Applications submitted through express, overnight mail or another delivery service will be considered as meeting the announced deadline if they are received in the mailroom at the address stated above for express, overnight mail or another delivery service on or before the deadline. Applicants are cautioned that express, overnight mail or other delivery services do not always deliver as agreed. Applicants should take this into account because failure of such delivery services will not extend the deadline. The address must appear on the envelope or package containing the application with the note ''Attention: Targeted Commodity Partnerships for Risk Management Education Program''

Mailed applications will be considered meeting the announced deadline if they are received on or before the deadline in the mailroom at the address stated above for mailed applications. Applicants are responsible for mailing applications well in advance, to ensure that applications are received on or before the deadline time and date. Applicants using the U.S. Postal Service should allow for the extra time for delivery due to the additional security measures that mail delivered to government offices in the Washington DC area now requires. RMA cannot accommodate transmissions of applications by facsimile or through other electronic media. Therefore, applications transmitted electronically will not be accepted regardless of the date or time of submission or the time of receipt.

D. Acknowledgement of Applications

Receipt of applications will be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt will be acknowledged by letter.

When received by RMA, applications will be assigned an identification number. This number will be communicated to applicants in the acknowledgement of receipt of applications. An applications identification number should be referenced in all correspondence regarding the application. If the applicant does not receive an acknowledgement within 15 days of the submission deadline, the applicant should contact Lydia Astorga at (202) 260–4728.

Part V—Review Process

A. General

Each application will be evaluated using a three-part process. First, each application will be screened by RMA personnel to ensure that it meets the requirements in this announcement and sorted into regional groupings according to the region in which the applicant proposes to deliver risk management training. Regional assignments of applications will be determined by matching the location of the majority of farmers and ranchers identified in an application as the beneficiaries of the applicant's educational efforts with the areas serviced by RMA's Regional Offices. In the event an application identifies producers to be trained in areas serviced by more than one RMA Regional Office or if the specific location of the farmers and ranchers to be trained is unclear from the application, then RMA will make a determination as to which region's producers would most likely benefit from the applicant's educational efforts and assign the application to that region for evaluation. Each application that meet the deadlines and are in conformance with all requirements in this announcement will be reviewed competitively.

Second, a review panel will determine whether the producers to be provided with training and informational opportunities are producers of Targeted Commodities. All applications in a given region designated by the panel as producers of Targeted Commodities, will be awarded 10 bonus evaluation points. Bonus evaluation points will be added later to a project's merit evaluation points to determine an application's total score.

Third, the review panel will consider the merits of all applications that pass the initial screen. The panel for each application will be comprised of not less than three independent reviewers from USDA, other federal agencies, and others representing public and private organizations, as needed. The narrative, and any appendixes, provided by each applicant will be used by the review panel to evaluate the merits of the project that is being proposed for funding. The panel will examine and rank all applications within each region's grouping and award merit evaluation points based on the ''Evaluation Criteria and Weights'' contained in paragraph B. Each regional grouping will be evaluated, ranked, and scored independently.

Applications will be evaluated in each of the five criteria listed below and the top five applications for each Targeted State will be ranked one through five, with one being the highest, for each category. Each criteria has specific elements that the panel will look at when evaluating the applications and ranking them. A specific number of points are assigned to each of the top five rankings. The numerical scored will be supported by explanatory statements on the formal rating form describing the major strengths and weaknesses under each applicable criteria contained in paragraph B of this part.

After evaluating each of the applications, the scores for each reviewer on the panel will be averaged for each criterion. After the scored for each criterion have been averaged, they will be totaled together to determine the merit score. Bonus points, if any will be added to determine the total score. This ranking scheme assumes that at least five applications are available for evaluation in each regional grouping. If less than five applications are available for a given region, then for each evaluation criterion, reviewers will assign the available applications to one of the five available ranking slots with its associated score, according to the application's merits with respect to that criterion.

In the event that more than five applications are received for a given region, and the maximum amount available has not been reached, the review panel may elect to conduct a second round of application evaluations after an initial round has been completed. The panel will score a second round by first, recommending that the applications receiving the top five scores from the initial round be given priority for funding in the order one through five. The panel will then evaluate all remaining applications in the same manner that the evaluation was conducted for the initial round. The top scoring applications from the second round will be recommended for funding until the maximum amount available has been reached. If the review panel determines that additional evaluation rounds are needed, it will conduct them in a similar manner to those used for the second rounds to expand the ranking list of applications recommended for funding for that region.

After all applications have been rated, ranked, and scored (including both merit and bonus evaluation points), a lottery will be used to resolve any instances of tie total scores for a given region. If such a lottery is required, the names of all tied applicants for a given region will be entered into a drawing. The first applicant drawn will be considered as having priority in funding over other tied applicants. If needed, other names with tied scores will be drawn in turn to determine the funding priority for all tied applicants in a region.

After all tied scores have been resolved, the review panel will report to the Manager of FCIC on the results from each region. The panel's report will include a listing of funding recommendations, using the approximate funding available per region identified in this announcement as a guide. The panel may, at its discretion, recommend that any application receiving 50 or fewer points not receive funding. The Manager of FCIC will make the final determination on those applications that will be awarded funding.

B. Evaluation Criteria and Weights

Applications will be evaluated according to the following criteria:

1. Management—maximum 15 points

The applicant for funding must demonstrate their ability to implement sound and effective management practices and have the organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers of agricultural commodities in the geographical area in which the applicant intends to deliver training. If they have been recipients of other Federal or other government grants, cooperative agreements, or contracts, the applicant must also detail that they have consistently complied with financial and program reporting and auditing requirements. Applicants that will employ, or have access to, personnel who have experience in directing agricultural programs or providing educations programs that benefit the targeted producers will receive higher rankings.

The application ranking and scoring for each region for the Management criteria are:

Ranking	Scoring
Highest	15.
2nd Highest	12 points.
3rd Highest	9 points.
4th Highest	6 points.
5th Highest	3 points.

2. Partnering—maximum 25 points

The applicant must demonstrate experience and capacity to partner with and gain the support of grower organizations, agribusiness professionals, and agricultural leaders to carry out a local program of risk management education and information to the producers of agricultural commodities. Applicants that can demonstrate and document that partnership commitments are in place for the express purpose of delivering the program in this announcement will receive higher rankings than applicants that cannot demonstrate existing partnerships. Moreover, applicants with existing partnerships reaching a broader group of farmers and ranchers will be ranked higher than those with more limited partnerships.

The application ranking and scoring for each region for the Partnering criteria are:

Ranking	Scoring
Highest	25 points.
2nd Highest	20 points.
3rd Highest	15 points.
4th Highest	10 points
5th Highest	5 points.

3. Goals and Objectives—maximum 25 points

For each of the applicant's responsibilities contained in part III , the applicant must demonstrate that he or she can establish specific goals, tasks, and time lines that further the purpose of this program. Applicants will obtain a higher ranking to the extent that the goals envisioned for each task of the project are specific, measurable, time-framed, realistic, have specific time frames for completion, and relate directly to the required activities and program objectives described in this announcement.

The application ranking and scoring for each region for the Goals and Objectives criteria are:

Ranking	Scoring
Highest	25 points.
2nd Highest	20 points.
3rd Highest	15 points.
4th Highest	10 points.
5th Highest	5 points.

4. Cost Effectiveness—maximum 20 points

The applicant must demonstrate that the direct and indirect risk management education benefits to farmers and ranchers in the State warrant the funding requested. Applicants will be ranked according to the extent to which they can effectively demonstrate that the quantity and quality of the risk management education and information received by producers during the project is maximized relative to the requested

funding. Expected educational benefits can be estimated both directly (through the hours of educational activities planned specifically for agricultural producers and the resulting number of producers expected to be reached) and indirectly (through educational activities planned for agribusiness professionals who will relay information to producers). Higher rankings in each region will be awarded to those applicants with greater expected benefits for producers relative to the funds that are requested by the applicant.

The application ranking and scoring for each region for the Cost Effectiveness criteria are:

Ranking	Scoring
Highest	20 points.
2nd Highest	16 points.
3rd Highest	12 points.
4th Highest	8 points.
5th Highest	4 points.

5. Program Delivery Plan—maximum 15 points

The applicant must demonstrate that its program delivery plan described in the narrative will be effective. Higher rankings will be given to those applicants that can demonstrate that it has an effective plan for each of the required responsibilities contained in part III. Also, those applicants that can demonstrate that its plan can be expected to lead to increased risk awareness by agribusiness professionals and producers of agricultural commodities and increased risk management skills of local producers will receive higher rankings.

The application ranking and scoring for each region for the Program Delivery Plan criteria are:

Ranking	Scoring
Highest	15 points.
2nd Highest	12 points.
3rd Highest	9 points.
4th Highest	6 points.
5th Highest	3 points.

C. Confidentiality

The names of applicants, the content of applications, and the panel evaluations of applications will all be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members will remain confidential throughout the entire review process and will not be released to applicants. At the end of the fiscal year, names of panel members will be made available. However, panelists will not be identified with the review of any particular application.

Part VI—Additional Information

A. Access to Panel Review Information

Copies of rating forms, not including the identity of reviewers, will be sent to the applicant after the review and awards process has been completed.

B. Notification of Partnership Agreement Awards

Following approval of the applications selected for funding, notice of project approval and authority to draw down funds will be made to the selected applicants in writing. Within the limit of funds available for such purpose, the awarding official of RMA shall enter into partnership agreements with those applicants whose applications are judged to be most meritorious under the procedures set forth in this announcement, which provides the amount of Federal funds for use in the project period, the terms and conditions of the award, and the time period for the project. The effective date of the partnership agreement shall be on the date the agreement is executed by both parties and it shall remain in effect for no more that one year. All funds provided to the applicant by FCIC must be expended solely for the purpose for which the funds are obligated in accordance with the approved application and budget, the regulations, the terms and conditions of the award, and the applicability of Federal cost principles. No commitment of Federal assistance beyond the project period is made or implied, as a result of any award resulting from this Notice.

C. Confidential Aspects of Proposals and Awards

When an application results in a partnership agreement, it becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary should be clearly marked within an application. The original copy of a proposal that does not result in an award will be retained by RMA for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the express written consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to award.

D. Reporting Requirements

The applicants awarded the partnership agreement will be required to submit semi-annual progress and financial reports (SF–269) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period.

E. Audit Requirements

The applicants awarded the partnership agreement are subject to audit.

F. Prohibitions and Requirements With Regard to Lobbying

Section 1352 of Public Law 101–121, enacted on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective recipients, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires recipients and any subcontractors (1) to certify that they have neither used nor will use any appropriated funds for payment of lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients of their subcontractors will pay with profits or other nonappropriated funds on or after December 22, 1989; ad (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for non-compliance. A copy of the certification and disclosure forms must be submitted with the application and are available from Lydia Astorga at the above stated address and telephone number.

Signed in Washington, DC, on April 15, 2002.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 02–9615 Filed 4–18–02; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Elk and Forest Counties, PA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: In accordance with the National Environmental Policy Act, notice is hereby given that the Forest Service, Allegheny National Forest (ANF), Marienville Ranger District will prepare a Draft Environmental Impact Statement to disclose the environmental consequences of the proposed Spring Creek Project. The purpose of this project is to move the ANF from the existing condition towards the desired condition, as detailed in the Allegheny National Forest Land and Resource Management Plan (Forest Plan).

The Forest Plan provides for management of forest resources. Management objectives include producing a sustainable supply of high-quality saw timber and wood products, developing and maintaining a wide array of wildlife habitats, and providing a range of recreation settings and experiences. The Allegheny National Forest is divided into specific zones or Management Areas. Specific objectives are defined for each Management Area, and the Spring Creek Project Area contains Management Areas 1.0, 3.0, 6.1, and 6.3. MA 3.0 emphasizes timber harvest as a means for making desired changes to forest vegetation and satisfying the public demand for timber products. Management Area 1.0 emphasizes habitat conditions in early successional forest stages and those wildlife species dependent on such habitat. Management Area 6.1 emphasizes management of forest vegetation as mature or over mature forest. Management Area 6.3 is a special management area designated for waterfowl and associated riparian habitat management.

In order to move toward the Desired Condition proposed activities include: (1) Regeneration harvests consisting of shelterwood seed/removal cuts, overstory removal cuts, two-age harvests, strip regeneration harvests, salvage overstory removal cuts, and salvage shelterwood/removal cuts; (2) intermediate harvest consisting of thinning/improvement cuts, single tree and group selection, salvage harvests, and release cuts (pre-commercial timber stand improvement); (3) reforestation treatment consisting of herbicide application, site preparation, fertilization, fencing, and planting; (4) wildlife habitat improvement consisting of (a) restoring/improving aquatic habitat through planting and controlling aquatic, shrub, and conifer and streamside vegetation species and rehabilitating erosion prone areas and placing aquatic structures and coarse woody debris, (b) restoring/reestablishing/improving terrestrial habitat vegetation through planting and releasing native tree and shrubs, prescribe burning, and opening management through planting and seeding of native herbaceous vegetation, (c) restoring/improving terrestrial habitat structure through aspen management, creating snag and providing coarse woody debris, and placing nest structures, (d) general wildlife habitat improvements through providing user access and parking at wildlife viewing areas; (5) transportation activities consisting of road construction, reconstruction, eliminating unnecessary roads, limestone surfacing, maintaining roads to high standards, and pit expansion; (6) recreation activities including horse trail designation, dispersed campsite construction/rehabilitation, scenery management, and efforts to curve illegal Off-Highway Vehicle (OHV) use.

During project analysis issues will be identified that focus on the management of the area. Alternatives will be developed to show various ways to address the issues. This process is driven by comments received from the public, other agencies, and internal Forest Service concerns. To assist in commenting, a scoping letter providing more detailed information on the project proposal has been prepared and is available to interested parties.

DATES: The public comment period will be for 30 days from the date this notice is published in the **Federal Register**. Comments and suggestions concerning the scope of the analysis should be submitted (postmarked) by May 20, 2002 to ensure timely consideration.

ADDRESSES: Submit written, oral, or e-mail comments by: (1) Mail—Spring Creek Project, ID Team Leader, Marienville Ranger District, Ridgway Office, RD 1, Box 28A, Montmorenci Road, Ridgway, PA 15953; (2) phone—814–776–6172; (3) e-mail—*anf/r9_allegheny@fs.fed.us* (**please note:** when commenting by e-mail be sure to list *Spring Creek EIS* in the subject line and include a US Postal Service address so we may add you to our mailing list).

FOR FURTHER INFORMATION CONTACT: Carl Leland or John Weyant, Marienville Ranger District, at 814–776–6172.

SUPPLEMENTARY INFORMATION: Preliminary Issues were developed based on past projects in the area (environmental analysis), issues developed for similar projects, and Forest Service concerns and opportunities identified in the Project Area. These issues are listed below:

1. *Road Management*—The Forest Service will complete a Roads Analysis, which includes evaluating all roads in the Project Area for effects to the ecosystem. This effort has been undertaken within the Spring Creek watershed. The proposed action requires examining the road system to determine if the existing road system is adequate (or if improvements are needed), and if any roads need to be closed for resource protection or other reasons (*e.g.,* water quality, wildlife, or recreation opportunities).

2. *Even-Aged/Uneven-Aged Management*—The Forest Plan provides direction regarding the primary silvicultural system to be used in each management area; for Management Area 3.0 it is even-aged management. However, uneven-aged management is an option considered for inclusions such as riparian areas, wet soils, or visually sensitive areas.

These issues may be modified as additional issues are identified during scoping. A range of alternatives will be considered after public comments are received and analyzed. One of these will consider No Action for the Project Area. Another alternative will be the proposed action. Management actions within the alternatives will respond to the issues in different ways by varying the size and intensity of the treatments and projects proposed. The amount of even and uneven-aged management, wildlife, recreation development, road management, watershed rehabilitation and other activities may differ within the alternatives. The combinations of proposed activities are likely to be adjusted after all comments are reviewed.

Comments that are site-specific in nature are most helpful to resource professionals when trying to narrow and address the public's issues and concerns.

Commenting: Comments received, including names and addresses of those who comment, will be considered part of the public record and may be subject to public disclosure. 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.

The Draft EIS is expected to be filed with the Environmental Protection Agency and available for public review by January 2003. At that time the Environmental Protection Agency will publish a Notice of Availability of the document in the **Federal Register** (this will begin the 45-day comment period on the Draft EIS). After the comment period ends on the Draft EIS, the

comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The Final EIS is scheduled for release in May 2003.

The Forest Service believes it is important to give reviewers notice at this early stage of several court ruling 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 objection that could be raised at the draft environmental impact statement state but that are not raised until after completion of the final environmental impact statement stage may be waived or dismissed by the courts (*City of Angoon* v. *Hodel,* 803 F.2nd 1016, 1022 [9th Cir. 1986] and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 [E.D. Wis. 1980]).

Because of the 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 are made available to the Forest Service at a time when they can be meaningfully considered and responded to in the final environmental impact statement. To assist the Forest Service in identifying and consider issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages, sections, or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to Council on Environmental Quality *Regulations for implementing the procedural provisions of the National Environmental Policy Act* at CFR 1503.3 in addressing these points.

This decision will be subject to appeal under 36 CFR 215. The responsible official is Leon F. Blashock, Marienville Ranger District, Ridgway Office, RD 1 Box 28A, Montmorenci Road, Ridgway, PA 15853 @ (814) 776–6172.

Dated: April 9, 2002.

Kevin B. Elliott,

Forest Supervisor.

[FR Doc. 02–9141 Filed 4–18–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Payette National Forest, Idaho, Middle Little Salmon Vegetation Management Project

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service published a Notice of Intent to prepare an environmental impact statement (EIS) for the Middle Little Salmon Vegetation Management Project in the **Federal Register** on February 12, 1999 (Vol. 64, No. 29, pages 7164–7165). A revised Notice of Intent is being issued due to two major changes (Forest Service Handbook 1909.15 part 21.2):

1. It has been more than six months since filing the original Notice of Intent; and

2. There has been a change in the proposed action.

The USDA Forest Service will prepare the Middle Little Salmon Vegetation Management Project EIS. The proposed action in the EIS is to manage timber stands to improve their productivity and provide defensible space from wildfires on National Forest System Lands adjacent to a private land subdivision. Additionally, the proposed action is to obliterate roads to reduce sediment, and close other roads to reduce wildlife vulnerability. The Payette National Forest invites written comments and suggestions on the scope of the analysis and the issues to address. The agency gives notice of the full National Environmental Policy Act (NEPA) analysis and decision-making process so that interested and affected people know how they may participate and contribute to the final decision.

DATES: Comments need to be received by May 28, 2002.

ADDRESSES: Send written comments to Kimberly A. Brandel, District Ranger, New Meadows Ranger District, Payette National Forest, P.O. Box J, New Meadows, Idaho 83654.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action should be directed to Sue Dixon, Project Team Leader, at the above address, phone (208) 347–0300.

SUPPLEMENTARY INFORMATION: The Middle Little Salmon planning area is located in the Round Valley Creek and Upper Mud Creek subwatersheds on the New Meadows Ranger District. It is four miles north and west of New Meadows and is approximately 11,823 acres in size. The purpose and need for this activity is to (1) improve the existing condition of forest vegetation within the planning area to move toward the goals, objectives, and desired future condition for forest vegetation stated in the Payette National Forest Land and Resource Plan; and (2) lower the risk of crown fires and reduce fire severity on National Forest lands surrounding the Circle C subdivision.

The proposed action includes a variety of activities to meet the purpose and need. (1) Harvest approximately 6.4 million board feet on 686 acres, of which 361 acres are to reduce the fuels around the Circle C Subdivision. Harvest prescriptions would consist of shelterwood, commercial thinning, and patch clearcuts. Yarding systems would be primarily tractor, and 79 acres of skyline. (2) Reduce crown fire hazard and lower fire severity on 605 acres by commercial harvest (361 acres stated previously), hand pile and burn 211 acres in riparian conservation areas, and prescribe burn an additional 33 acres. (3) Provide for conifer seedling planting and natural regeneration on 427 acres. (4) Road management would consist of reconstructing seven miles of road, and decommissioning or closing 73 miles of road. There would be no new road construction. Seven miles of road would be reconstructed for hauling logs, and stream crossings would include graveling to reduce sediment. (5) Treat harvest generated fuels on approximately 685 acres. A total of 929 acres would be treated with this proposed action. This proposed action would require four one-time, site-specific, non-significant amendments to the Payette National Forest Plan.

Preliminary issues for this project include effects on fisheries, wildlife, water quality, and effects of hazardous fuels reduction.

A range of reasonable alternatives will be considered. The no-action alternative will serve as a baseline for comparison of alternatives. The proposed action will be considered along with additional alternatives developed that meet the purpose and need and address significant issues identified during scoping. Alternatives may have different amounts, locations, and types of project activities.

Comments received in response to this notice, including names and addresses of those who comment, will be part of the project record and available for public review.

The Forest Service is seeking information and comments from other Federal, State, and local agencies; Tribal governments, organizations; and individuals who may be interested in or affected by the proposed action. This

input will be used in preparation of the EIS.

Comments will be appreciated throughout the analysis process. The draft EIS will be filed with the Environmental Protection Agency (EPA) and is anticipated to be available for public review by summer 2002. The comment period on the draft EIS will be 45 days. It is important that those interested in the management of the Payette National Forest participate at that time.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. 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 at the draft environmental impact statement stage but that 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 016, 1002 (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 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 raised by the proposed action, comments on the 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 statement. Comments may also address the adequacy of the draft environmental impact statement 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.

After the 45-day comment period ends on the draft EIS, the Forest Service will analyze comments received and address them in the final EIS. The final EIS is scheduled to be completed in 2002. The Responsible Official is the Payette National Forest Supervisor. The decision will be documented, including the rationale for the decision, in a Record of Decision (ROD). The decision will be subject to review under the Forest Service Appeal Regulations at 36 CFR 215.

Dated: April 11, 2002.

Robert S. Giles,

Acting Forest Supervisor.

[FR Doc. 02–9609 Filed 4–18–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Payette National Forest, Idaho, Golden Hand #3 and #4 Lode Mining Claims, Plan of Operations

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) for the proposed Plan of Operations (POO) for the Golden Hand #3 and #4 lode mining claims in the Frank Church—River of No Return (FC–RONR) Wilderness on the Krassel Ranger District, Payette National Forest. The purpose of the POO is to allow for mineral development of the claims. The EIS will disclose the environmental effects of the POO submitted by American Independence Mines and Minerals, Inc. The Forest now invites comments on the scope of the analysis and the issues to address.

DATES: Comments must be received by May 27, 2002.

ADDRESSES: Send written comments to Ana Egnew, Land Management Specialist, Krassel Ranger District, Payette National Forest, PO Box 1026, McCall, Idaho 83638.

FOR FURTHER INFORMATION CONTACT: Ana Egnew at the above address, or e-mail: *aeegnew@fs.fed.us.*

SUPPLEMENTARY INFORMATION: American Independence Mines and Minerals, Inc. has proposed a Plan of Operation (POO) to allow for mineral development of the Golden Hand #3 and #4 mining claims. The mining claims are located in the FC–RONR Wilderness, approximately 50 miles northeast of McCall, Idaho in section 26, T22N, R9E, Boise Meridian. The claims encompass 20 acres each adjacent to Coin Creek, a tributary of Beaver Creek, which flows into Big Creek, a tributary of the Salmon River.

Proposed Action

Access to the claims would be on Forest Service (FS) roads to the FC–RONR Wilderness boundary at Pueblo Summit, north of the town of Edwardsburg. Proposed access would then require vehicle passage for approximately 2.7 miles past the wilderness boundary on FS trail #13. Within the boundary is a roadbed that existed before creation of the wilderness. The roadbed was converted to use as a trail upon establishment of the wilderness. Vehicle access would require clearing slough, downed trees, and other obstacles to maintain a safe width for equipment transport.

The proposed operation would construct approximately 2000 feet of new road on Golden Hand lode mining claim #3 and reconstruct approximately 1700 feet of preexisting roadbed on Golden Hand lode mining claim #4. These roads would access 31 drill locations and 5 trench locations. Approximately 750 feet of trench (5 feet wide and 5 feet deep) would be excavated. Production development work would also be conducted underground from existing mine openings (adits).

Equipment proposed for use in the mining operation would include pickup trucks, a tandem axle flatbed truck, a 14 cubic yard tandem axle ore truck, small truck or track mounted drill rigs, a backhoe/loader, a bulldozer, a road grader, an air compressor, chainsaws, small underground mining machinery, a generator, and hand tools.

Extracted ore would be hauled approximately 12 miles to an existing mill site near the town of Edwardsburg for bulk testing. Waste rock would be placed on existing dumps at the mine site. Fuel would be transported in sealed containers and stored in a leak proof containment. Explosives would be transported in certified, licensed, and insured vehicles, and would be stored in existing or portable magazines.

Responsible Official

The responsible official is the Forest Supervisor of the Payette National Forest.

Nature of Decision To Be Made

The nature of the Forest Service decision to be made in response to the POO submitted by American Independence Mines and Minerals, Inc. is: (1) Approve the project as proposed, or (2) Notify the operator of changes or additions to the POO necessary to minimize or eliminate adverse environmental impacts from mineral activities on National Forest System (NFS) lands, as required by Forest Service regulations (36 CFR Part 228A).

The Payette National Forest Supervisor has determined that

preparation of the EIS is required for approval of the POO under Forest Service regulations governing locatable mineral activities on National Forest System Lands (36 CFR part 228A) and CEQ regulations implementing the National Environmental Policy Act (40 CFR parts 1501–1508).

Preliminary Issues

Preliminary issues identified by the Forest Service interdisciplinary team include use of mechanized equipment in wilderness, protection of wilderness character, effects to threatened and endangered species, and effects to aquatic species and water quality.

Public Participation

Public participation will be important at several points during the analysis, particularly during scoping of issues and review of the draft environmental impact statement (DEIS). This notice of intent initiates the scoping process, which guides the development of the EIS. The scoping process will identify potential issues and issues to be analyzed in detail, and will lead to the development of alternatives to the proposal.

Comments received in response to this notice, including the names and addresses of those who comment, will be part of the project record and available for public review.

The second major opportunity for public input is with the DEIS. The DEIS will analyze a range of alternatives to the proposed action, including the no-action alternative. The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in January 2003. EPA will then publish a notice of availability of the DEIS in the **Federal Register**. Public comments will be invited. The comment period on the DEIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. 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). In addition, environmental objections that could be raised at the draft environmental impact statement stage but that 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). Because of these 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 raised by the proposed action, comments on the DEIS should be as specified as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS 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 40 CFR 1503.3 in addressing these points.

In the Final EIS (FEIS) the Forest Service will respond to comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, and environmental consequences addressed in the FEIS, which is expected to be completed in May 2003, along with applicable laws, regulations, and policies in making the final decision regarding this proposal. The responsible official will document the decision and reasons for it in the Record of Decision. That decision will be subject to appeal under 36 CFR 215.

Dated: April 11, 2002.

Robert S. Giles,

Acting Forest Supervisor.

[FR Doc. 02–9610 Filed 4–18–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Provincial Advisory Committee (OPAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic Province Advisory Committee (OPAC) will meet on May 10, 2002. The meeting will be held at the Forest Service/WA Department of Natural Resources's Conference Room at 437 Tillicum Lane in Forks, Washington. The meeting will begin at 9:30 a.m. and end at approximately 3:00 p.m. Agenda topics are: (1) Current status of key Forest issues; (2) Status update on the Resource Advisory Committees for Rural Schools and Community Self-Determination Act of 2000; (3) NW Forest Plan Implementation Monitoring; (4) Road Management; (5) Open forum; and (6) Public comments.

All Olympic Province Advisory Committee Meetings are open to the public. Interested citizens are encourage to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Ken Eldredge, Province Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA 98512–5623, (360) 956–2323 or Dale Hom, Forest Supervisor, at (360) 956–2301.

Dated: April 12, 2002.

Dale Hom,

Forest Supervisor, Olympic National Forest.

[FR Doc. 02–9563 Filed 4–18–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Fresno 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 and Sequoia National Forests' Resource Advisory Committee (RAC) for Fresno County will meet on May 14, 2002, 6:30–9:15 p.m. The Fresno County Resource Advisory Committee will meet at the Forest Supervisor's office Clovis, CA. The purpose of the meeting is for the Resource Advisory Committee to receive project proposals for recommendations to the Forest Supervisor for expenditure of Fresno County Title II funds.

DATES: The Fresno RAC meeting will be held on May 14, 2002. The meeting will be held from 6:30 p.m. to 9:15 p.m.

ADDRESSES: The Fresno County RAC meeting will be held at the Sierra National Forest Supervisor's office, 1600 Tollhouse Road, Clovis, CA.

FOR FURTHER INFORMATION CONTACT: Sue Exline, USDA, Sierra National Forest,

1600 Tollhouse Road, Clovis, CA 93611, (559) 297–0706 ext. 4804; e-mail *skexline@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Review and approve the April 9, 2002 meeting notes; (2) consideration of Title II project proposals from the public and from the RAC members; (3) confirm the date, location and agenda of the next meeting; (4) public comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: April 10, 2002.

Ray Porter,

District Ranger.

[FR Doc. 02–9564 Filed 4–18–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southeast Washington Resource Advisory Committee (RAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463), the Southeast Washington Resource Advisory Committee (RAC) will meet on April 25, 2002 in Pomeroy, Washington. The purpose of the meeting is to discuss future RAC actions including the consideration of possible Title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act.

DATES: The meeting will be held on April 25, 2002 from 6 p.m. to 9 p.m.

ADDRESSES: The meeting will be held at the Pomeroy Ranger District Office, 71 West Main Street, Pomeroy, Washington.

FOR FURTHER INFORMATION CONTACT: Monte Fujishin, Designated Federal Official, USDA, Umatilla National Forest, Pomeroy Ranger District, 71 West Main Street, Pomeroy, WA 99347. Phone: (509) 843–1891.

SUPPLEMENTARY INFORMATION: This will be the third meeting of the committee, and will focus on Title II project proposals. 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: April 12, 2002.

Jeff D. Blackwood,

Forest Supervisor.

[FR Doc. 02–9577 Filed 4–19–02; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: May 20, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-ODay Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: Air Rite Odor Counteractants/Gold/6840–00–NIB–0016.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Silver/6840–00–NIB–0018.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Red/6840–00–NIB–0019.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Blue/6840–00–NIB–0021.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Spearmint/6840–00–NIB–0022.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Honeysuckle/6840–00–NIB–0023.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Spice/6840–00–NIB–0025.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Sweet Pine/6840–00–NIB–0026.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Floral/6840–00–NIB–0027.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.

Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Citrus/6840–00–NIB–0028.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Vanilla Bean/6840–00–NIB–0029.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Green Apple Mint/6840–01–378–0412.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.
Product/NSN: Air Rite Odor Counteractants/Green/6840–01–378–0447.
NPA: Blind Industries & Services of Maryland, Baltimore, MD.
Contract Activity: Office Supplies & Paper Products Commodity Center, New York, NY.

Services

Service Type/Location: Food Service Attendant, Mississippi Air National Guard (Building 129, Dining Facility), Jackson, MS.
NPA: Goodwill Industries of Mississippi, Ridgeland, MS.
Contract Activity: Mississippi Air National Guard, Jackson, MS.
Service Type/Location: Janitorial/Custodial, U.S. Coast Guard Air Station—Detroit, Selfridge ANG Base, MI.
NPA: New Horizons Rehabilitation Services, Inc., Auburn Hills, MI.
Contract Activity: U.S. Coast Guard, Department of Transportation.
Service Type/Location: Janitorial/Custodial, 99th Regional Support Command Headquarters, Coraopolis, PA.
NPA: Hancock County Sheltered Workshop, Weirton, WV.
Contract Activity: Department of the Army.
Service Type/Location: Office Supply Store, VA Medical Center, San Francisco, CA.
NPA: Associated Industries for the Blind, Milwaukee, WI.
Contract Activity: VA Medical Center, San Francisco, CA.

Sheryl D. Kennerly,
Director, Information Management.
[FR Doc. 02–9648 Filed 4–18–02; 8:45 am]
BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arkansas 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 Arkansas Advisory Committee to the Commission will convene at 6 p.m. and adjourn at 8 p.m. on May 16, 2002, at the Doubletree Hotel, 424 West Markham, Little Rock, Arkansas 72201. The Committee will discuss activities to advance the recommendations on its 2001 report, ''Who Is Enforcing Civil Rights in Arkansas: Is There a Need for a State Civil Rights Agency?''

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, April 15, 2002.

Ivy L. Davis,
Chief, Regional Programs Coordination Unit.
[FR Doc. 02–9672 Filed 4–18–02; 8:45 am]
BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the California 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 California Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 4 p.m. on Wednesday, May 15, 2002, at the San Diego Airport/Harbor Island, 1960 Harbor Island Drive, San Diego, California 92101. The purpose of the planning meeting with briefing is to plan future activities, and for the Committee to be brief on racial profiling by community leaders and public officials.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 15, 2002.

Ivy L. Davis,
Chief, Regional Programs Coordination Unit.
[FR Doc. 02–9674 Filed 4–18–02; 8:45 am]
BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado 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 Colorado Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 4:30 p.m. on Wednesday, May 15, 2002, at the Doubletree Hotel, 3203 Quebec Street, Denver, Colorado 80207. The purpose of the meeting is to hold new member orientation, discuss civil rights issues in the state and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact, John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). 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, April 15, 2002.

Ivy L. Davis,
Chief, Regional Programs Coordination Unit.
[FR Doc. 02–9673 Filed 4–18–02; 8:45 am]
BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Jersey 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 New Jersey Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 4 p.m. on Tuesday, May 7, 2002, at the New Jersey State House, 125 W. State Street, Room 16, Trenton, NJ 08625. The Advisory Committee will provide new member orientation, plan future activities, and hold a briefing session to hear from invited speakers on civil rights developments in the state.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-

Taek Chun, Director 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, April 15, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–9675 Filed 4–18–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Oklahoma 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 Oklahoma Advisory Committee to the Commission will convene at 6 p.m. and adjourn at 8 p.m. on May 15, 2002, at the Biltmore Hotel, 401 South Meridian Avenue, Oklahoma City, Oklahoma 73108. 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, April 15, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–9671 Filed 4–18–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Wyoming 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 Wyoming Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 1 p.m. on Saturday, May 25, 2002, at the Best Western Hitching Post Inn, 1700 W. Lincolnway, Cheyenne, WY 82001. The purpose of the meeting is to hold new member orientation, review status of project, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact, John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). 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, April 15, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–9670 Filed 4–18–02; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 19–2002]

Foreign-Trade Zone 135—Palm Beach, FL, Area; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Port of Palm Beach District, grantee of Foreign-Trade Zone 135, requesting authority to expand FTZ 135, in the Palm Beach, Florida, area, within the West Palm Beach Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 11, 2002.

FTZ 135 was approved on March 16, 1987 (Board Order 348, 52 FR 9903, 3/27/87). On August 7, 2001 (Board Order 1184, 66 FR 42993, 8/16/01), the FTZ Board authorized the reissuance of the grant of authority for FTZ 209 to the Port of Palm Beach District, redesignating FTZ 209 as part of FTZ 135. The zone project currently consists of the original four sites of FTZ 135 and the three redesignated sites of former FTZ 209: *Site 1* (25 acres)—within the Port of Palm Beach terminal area; *Site 2* (37 acres)—industrial site at Interstate 95 and Highway 710, two miles west of the terminal; *Site 3* (11 acres)—located at 700 Banyan Trail, Boca Raton; *Site 4* (66 acres)—Martin County Airport, 1801 S.E. Airport Road, Stuart; *Site 5* (24 acres, 3 sites)—Palm Beach International Airport and the North Palm Beach County Airport, Palm Beach; *Site 6* (282 acres, 3 parcels)—North Palm Beach County Airport at Beeline Highway and Route 786; and, *Site 7* (155,000 sq. ft.)—warehouse facility at 1440 West Indiantown Road, Jupiter.

The applicant is now requesting authority to expand the general-purpose zone to include an additional site (170 acres) in Palm Beach County: *Proposed Site 8* (170 acres)—within the 1,247-acre Palm Beach Park of Commerce, on Beeline Highway (SR 710) near Pratt Whitney Road, Palm Beach. The site is owned by Palm Beach Property Investments, Ltd. and Williamsburg Partners, Inc. The project will be developed and operated by The Rockefeller Group, based on an agreement with Palm Beach Property Investments, Ltd. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the addresses below:

1. *Submissions via Express/Package Delivery Services:* Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099—14th Street NW, Washington, DC 20005; or

2. *Submissions via the U.S. Postal Service:* Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue NW., Washington, DC 20230.

The closing period for their receipt is June 18, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 3, 2002).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the Port of Palm Beach District, One East 11th Street, Suite 400, Central Records, Riviera Beach, Florida 33409.

Dated: April 11, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–9662 Filed 4–18–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–812]

Investigation of Carbon and Certain Alloy Steel Wire Rod from Ukraine: Opportunity to Comment on the Status of Ukraine as a Non-Market Economy Country

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Request for Comments.

DATES: April 19, 2002.

FOR FURTHER INFORMATION CONTACT: George Smolik, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1843.

SUPPLEMENTARY INFORMATION:

SUMMARY:

The Department of Commerce is requesting comments on the status of Ukraine as a non-market economy country.

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 19 CFR part 351 (2001).

Background

On October 17, 2001, the Ministry of Economy and for European Integration Issues of Ukraine submitted a request for, and information in support of, graduation to market economy status for Ukraine, within the context of the antidumping investigation of carbon and certain alloy steel wire rod from Ukraine (''steel wire rod from Ukraine''). On November 20, 2001, Krivorozhstal, the sole respondent in steel wire rod from Ukraine, requested that the Department issue to it a market economy questionnaire. The petitioners in this investigation are Co-Steel Raritan, Inc., GS Industries, Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc. (''Petitioners''). On December 21, 2001, and March 14, 2002, Petitioners submitted comments regarding Ukraine's request for market economy graduation. On March 1 and March 18, 2002, Krivorozhstal responded to Petitioners' December 21, 2001 and March 14, 2002 submissions, respectively. On April 10, 2002, the Department placed on the record of this proceeding information that the Ministry of Economy and European Integration of Ukraine had presented to the Department on November 27, 2001 regarding its request for market economy graduation.

As indicated above, the Government of Ukraine, Krivorozhstal, and Petitioners have filed extensive information on whether Ukraine should be granted market-economy status. As explained in the *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbon and Certain Alloy Steel Wire Rod from Ukraine,* (67 FR 17367), the Department is currently analyzing the request for market economy graduation for Ukraine. For purposes of the preliminary determination, the Department treated Ukraine as a non-market economy (''NME'') country. *See Id.* at 67 FR 17369.

Opportunity for Public Comment

The Department invites public comment on Ukraine's economic reform to date, as they concern the factors listed in section 771(18)(B) of the Act, which the Department must take into account in making a non-market economy country determination:

(i) The extent to which the currency of the foreign country is convertible into the currency of other countries;

(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management;

(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country;

(iv) the extent of government ownership or control of the means of production;

(v) the extent of government control over allocation of resources and over price and output decisions of enterprises; and

(vi) such other factors as the administering authority considers appropriate.

Comments--Deadline, Format, and Number of Copies

The deadline for submission of comments will be 45 days after the date of publication of this notice in the Federal Register. All comments should be filed at the Department of Commerce Central Records Unit located at the address listed below. Rebuttal comments may be submitted up to 30 days after the date initial comments are due.

Each person submitting comments should include his or her name and address, and fully document or support all assertions and claims, using the following format: (1) Begin each comment on a separate page; (2) concisely state the issue identified and discussed in the comment and include any supporting documentation in exhibits or appendices; (3) provide a brief summary of the comment (a maximum of 3 sentences) and label this section ''summary of comment;'' (4) provide an index or table of contents; and (5) include the case number A–823–812 in the top right hand corner of the submission.

To simplify the processing and distribution of comments, the Department encourages the submission of documents in electronic form accompanied by an original and 5 copies in paper form. We require that documents filed in electronic form be on DOS formatted 3.5'' diskettes and prepared in either WordPerfect 9 format or a format that the Word Perfect program can convert and import into Word Perfect 9. Please submit comments in separate files on the diskette.

Comments received on diskette will be made available to the public on the Internet at Import Administration's website, http://ia.ita.doc.gov. Paper copies will be available for reading and photocopying in the Central Records Unit, Room B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Any questions concerning file formatting, document conversion, access on the Internet, or other file requirements should be addressed to Andrew Lee Beller, Import Administration Webmaster, (202) 482–0866.

This determination is issued and published in accordance with section 771(18)(c)(ii).

Dated: April 12, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–9661 Filed 4–18–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904; NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On April 11, 2002, CEMEX, S.A. de C.V. (''CEMEX'') filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the 10th Administrative Review, respecting Gray Portland Cement and Clinker from Mexico. This determination was published in the **Federal Register** (67 FR 12518) on March 19, 2002. The NAFTA Secretariat has assigned Case Number USA–MEX–2002–1904–05 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on April 11, 2002, requesting panel review of the 10th Administrative Review of the antidumping duty order described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is May 10, 2002);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is May 27, 2002); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: April 12, 2002.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 02–9565 Filed 4–18–02; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership National Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Manufacturing Extension Partnership National Advisory Board (MEPNAB), National Institute of Standards and Technology (NIST), will meet Thursday, May 9, 2002, from 8 a.m. to 3:30 p.m. The MEPNAB is composed of nine members appointed by the Director of NIST who were selected for their expertise in the area of industrial extension and their work on behalf of smaller manufacturers. The Board was established to fill a need for outside input on MEP. MEP is a unique program consisting of centers in all 50 states and Puerto Rico. The centers have been created by state, federal, and local partnerships. The Board works closely with MEP to provide input and advice on MEP's programs, plans, and policies. The purpose of this meeting is to discuss the state relations work being carried out by NIST with the state partners, update on the 360vu brand status and MEP program overview. Discussions scheduled to begin at 8 a.m. and to end at 9:15 a.m. and to begin at 2 p.m. and to end at 3:30 p.m. on May 9, 2002, on personnel issues and proprietary budget information will be closed.

DATES: The meeting will convene May 9, 2002 at 8 a.m. and will adjourn at 3:30 p.m. on May 9, 2002.

ADDRESSES: The meeting will be held in the Employees Lounge, Administration Building, at NIST, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Linda Acierto, Senior Policy Advisor, Manufacturing Extension Partnership, National Institute of Standards and Technology, Gaithersburg, Maryland 20899–4800, telephone number (301) 975–5033.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on January 3, 2002, that portions of the meeting which involve discussion of proposed funding of the MEP may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because that portion will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of the meeting which involve discussion of the staffing of positions in MEP may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in that portion of the meeting is likely to reveal information of a personal nature, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: April 15, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–9642 Filed 4–18–02; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Postponement of Public Meeting To Gather Information and Data Relating to the World Trade Center Disaster for Building and Fire Safety Purposes

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Postponement of public meeting.

SUMMARY: The National Institute of Standards and Technology announces that it is postponing the public meeting to gather information and data relating to the World Trade Center disaster for building and fire safety purposes, previously scheduled for April 22, 2002.

DATES: The meeting previously scheduled for April 22, 2002, from 8 a.m. to 4 p.m. is postponed.

FOR FURTHER INFORMATION CONTACT: Stephen Cauffman, (301) 975–6051 or by e-mail at stephen.cauffman@nist.gov.

SUPPLEMENTARY INFORMATION: On April 8, 2002, the National Institute of Standards and Technology (NIST) announced in the **Federal Register** (67 FR 16728) a public meeting to gather information and data relating to the World Trade Center disaster for building and fire safety purposes. The meeting was scheduled for April 22, 2002, from 8 aa.m. to 4 p.m. at the New York Marriott Hotel, Financial Center, in New York, NY.

The meeting will be rescheduled after two critical documents are available to potential presenters at the meeting: (1) The upcoming report on the Building Performance Assessment Team (BPAT) study of the disaster conducted by the coalition led by the American Society of Civil Engineers (ASCE) and sponsored by the Federal Emergency Management Agency (FEMA); and (2) the proposed NIST investigation approach, which will be based in part on the BPAT report. The NIST plan will be made available after the BPAT report is released.

The postponement will allow the public a greater opportunity to provide informed comment on the scope of NIST's plan, which will help guide the planned NIST investigation.

Submissions already received by NIST will be given full consideration when the meeting is rescheduled; those submissions may be amended to reflect the additional information that will be made available to the public.

Dated: April 16, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–9664 Filed 4–18–02; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 011113275–2037–02; I.D. 030602A]

RIN 0648–ZB11

Coral Reef Conservation Grant Program Implementation Guidelines

AGENCY: National Marine Fisheries Service (NMFS), National Ocean Service (NOS), Commerce.

ACTION: Final Implementation Guidelines for the Coral Reef Conservation Program.

SUMMARY: This document provides NOAA's Implementation Guidelines (Guidelines) for the Coral Reef Conservation Program (Program) under the Coral Reef Conservation Act of 2000 (Act). The Act authorizes the Secretary of Commerce (Secretary), through the NOAA Administrator (Administrator) and subject to the availability of funds, to provide matching grants of financial assistance for coral reef conservation projects under the Act (Coral Reef Conservation Program). As per the Act, NOAA has developed these Implementation Guidelines for the Program for Fiscal Year (FY) 2002 through FY 2004. Proposed Implementation Guidelines were published in the **Federal Register** for review and comment on December 10, 2001. NOAA will use several existing grant programs and mechanisms to implement the Program. Specific Program information including available funding, dates, and detailed application requirements and proposal evaluation criteria for FY 2002 are published concurrently with these Guidelines in a separate **Federal Register** Notice of Availability of financial assistance for coral reef conservation activities. NOAA is in the final stages of completing the National Coral Reef Action Strategy (Strategy), in consultation with the United States Coral Reef Task Force (USCRTF), as required under the Act. The purpose of the Strategy is to provide an implementation plan to advance coral reef conservation, including basis for funding allocations to be made under the Program. Upon final completion of the Strategy, NOAA will publish notice of the Availability of the Strategy in the **Federal Register** and at: *www.coralreef.noaa.gov/.* The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001, will be applicable to the funding guidance under this Program. This document is not a solicitation for FY 2002 project proposals.

DATES: Effective April 19, 2002.

FOR FURTHER INFORMATION CONTACT: David Kennedy, NOAA Coral Program Coordinator, Office of Response and Restoration, N/ORR, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910, Fax: 301–713–4389; Bill Millhouser, Pacific Regional Manager, CPD/OCRM, N/ORM3, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910, 301–713–3155, extension 189 or e-mail at *bill.millhouser@noaa.gov;* or Tom Hourigan, Biodiversity Program Leader, NOAA Watershed Division, HC–1, NOAA National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, 301–713–2319, extension 121 or e-mail at *tom.hourigan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Overview

The Coral Reef Conservation Act of 2000 was enacted on December 14, 2000, for the following purposes:

1. To preserve, sustain and restore the condition of coral reef ecosystems;
2. To promote the wise management and sustainable use of coral reef ecosystems to benefit local communities and the Nation;
3. To develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;
4. To assist in the preservation of coral reefs by supporting conservation programs, including projects that involve affected local communities and non-governmental organizations;
5. To provide financial resources for those programs and projects; and
6. To establish a formal mechanism for the collecting and allocating of monetary donations from the private sector to be used for coral reef conservation projects.

Under section 6403 of the Act, the Program authorizes the Secretary, through the Administrator and subject to the availability of funds, to provide matching financial assistance awards for coral reef conservation projects. Section 6408(c) of the Act authorizes up to $8,000,000 in each of FY 2001 through FY 2004 for projects under the Program.

NOAA will use several existing grant programs and mechanisms to implement the Program. Each fiscal year the Program will publish a **Federal**

Register Notice to describe the availability of funds and solicit project proposals. The annual funding guidance, beginning in FY 2002, will provide greater detail on the year's program priorities, application process, and proposal evaluation criteria.

B. Comments and Responses, and Changes to the Proposed Guidelines

The following summarizes the comments submitted in response to the Draft Guidelines published in the **Federal Register** on December 10, 2001, and NOAA's responses:

Comment 1: A commenter representing the coral reef research community raises concerns regarding the lack of support for long term funding for coral reef research, noting that if the goal of the funding is to support meaningful science and conservation projects, at least half the funds should be earmarked for 3–5 year projects. Moreover, the portion of the Guidelines that gives preference to projects that will be completed within 12 months of award distribution basically precludes funding much high quality, meaningful science, which generally requires multi-year efforts. The commenter notes that this language in Section IX. contradicts statements in Section VII. Funding Categories, and Mechanisms, and Section X. Project Review, which are concerned with long-term coral monitoring data and long-lasting conservation activities.

Response: NOAA generally agrees with the comment that there is a need to support a long range coral reef research funding program. However, NOAA is limited in its ability to initiate such a effort given the uncertainty that recent increases in Federal Coral Reef funding will be sustained over the next 3–4 years. Although the FY 2003 budget proposal maintains current funding levels for coral reef conservation activities, there are many competing budget priorities that can affect the final budget. NOAA will further consider funding long range research if continued budget support becomes more certain. In the interim NOAA has added a funding category for coral reef ecosystem research projects for the purpose of developing sound scientific information on the condition of coral reef ecosystems or threats to such ecosystems (*see* section VII(3) below). In FY 2002, funding under this category will be targeted at improving coral monitoring technologies. In addition, National Ocean Service (NOS) published in the **Federal Register** on February 28, 2002, an announcement of funding opportunity to submit proposals for the coral ecosystem studies which is for long term coral reef ecosystem research.

Comment 2: A commenter with experience in coral reef research states that the proposed guidelines are thorough and that NOAA's focus on education, local partnerships, coral health/vitality, mapping, and restoration is key and much needed. The commenter suggests adding marine protected areas (MPAs) and/or adaptive management research to the list of Eligible Conservation Activities in section V of the Guidelines, citing recommendations from the 9th International Coral Reef Symposium and states that more research is needed on the shape and use of buffer zones in MPA implementation. For example, mixed research results indicate an uncertain relationship between MPA size and success. Clearly more research is needed to dissect the cause and effect relationship between the success of MPAs and their size, location, connectivity, and the association with the surrounding environment.

Response: NOAA agrees with the comment as to the need to fund projects which develop a better understanding of the characteristics of successful MPAs. Research activities to improve the design and effectiveness of marine protected areas in coral reef ecosystems are eligible for funding under the State and Territorial coral reef management, general coral reef conservation, regional fishery management council, and international grant categories in FY 2002. We have not changed section V of the Guidelines; however, the language in this section reflects the specific statutory language of section 204(g) of the Act. NOAA is also undertaking such analyses with regard to specific areas of the Florida Key National Marine Sanctuary, and Hawaii and Guam are evaluating the effectiveness of the existing MPAs and beginning to examine the types of issues noted in the comment. In addition, the need for this type of research is specifically noted in several sections of the Strategy (Conduct Strategic Research and Improve The Use of Marine Protected Areas).

A commenter representing coastal states and territories, provides specific comments on a number of sections of the Guidelines:

Comment 3: The commenter reiterates the importance of language in Section IV. Applicant Eligibility Requirements, that gives a low priority to grants to Federal agencies and the requirement that proposed Federal agency projects must be in collaboration and coordination with state or local public or non-governmental organizations. The intent of the program is to benefit local coral reef initiatives within the Pacific and Atlantic Oceans, the Gulf of Mexico, and the Caribbean Sea.

Response: NOAA agrees with the comment that the Guidelines should give a low priority to funding Federal agencies, unless specific conditions are met; the final Guidelines maintain the language of the draft Guidelines in this regard. Please note, that section 6403(d)(3) of the Act also provides for the funding of international projects, as provided in the Guidelines.

Comment 4: The Strategy should be reconciled and integrated with other required Federal reports and studies such as the U.S. Coral Reef Task Force Oversight Policy, as well as other grants-related requests and information to reduce redundancy and effort.

Response: NOAA agrees that the various reporting requirements noted above should be consolidated as much as possible. NOAA will continue to work with state and territorial grantees and the Coral Reef Task Force agencies to address this issue over the coming year.

Comment 5: The Guidelines and the Strategy include a discussion of the interrelationship and integrated nature of coral reef management with response to the objectives of the Coastal Zone Management Act and federally approved coastal zone management programs. It is also recommended that the project reporting under the implementation guidelines include information regarding project coordination with the goals and objectives of federally approved coastal zone management (CZM) programs.

Response: NOAA believes that coral reef conservation and coastal management share many conservation and management objectives. In most cases, the same state or territorial agency is the lead for both coastal management and coral management functions; in cases where they are not, good local coordination is in place. The Guidelines and the FY 2002 Funding Guidance also require that state and territorial coral reef projects must be developed in partnership with all relevant local agencies, including the coastal zone management, water quality, and the wildlife and/or marine resource agencies. Given the high degree of coordination that currently exists, NOAA does not believe that specific reporting on project coordination with CZM goals is necessary.

Comment 6: The language in Section VI instructing the Administrator to consult with the Coral Reef Task force when identifying emerging threats or priorities should be changed from ''may'' to ''shall whenever possible.''

The commenter also notes the possible disparity between national and local level priorities, recommends close coordination at the local level to identify priorities for funding and recommends flexibility in determining priorities as they relate to criteria for grant approval.

Response: NOAA agrees with the need to carefully balance National goals and priorities with local conditions, objectives and customs. NOAA believes that the Guidelines and the FY 2002 funding guidance provide such a balance. With regard to the suggested language change regarding consultation with the Coral Reef Task Force, the Guidelines restate the statutory language of the Act, section 6403(d); therefore, the language has not been changed. Please note that the Coral Reef Task Force Working Groups, and states and territories have been consulted with, and have had substantial input into, the development of the Strategy.

Comment 7: The proposed implementation guidelines, in section VII. Funding Categories and Mechanisms, should be clarified to ensure that while one state agency may be the lead for managing grants or cooperative agreements, funds may be made available for use by any approved state agency.

Response: The Guidelines require that state and territorial proposals be developed in partnership with all relevant local agencies and organizations which have responsibilities for the management and conservation of coral reefs in that jurisdiction. The funding provided to any one agency should reflect local priorities and needs and be commensurate with that agency's responsibility and authority to achieve improved protection of coral reef ecosystem resources.

Comment 8: The implementation Guidelines should clarify the relationship between the grants or cooperative agreements made pursuant to the Act and these guidelines, and guidance and corresponding authorized cites for each funding category, *e.g.,* the Coastal Zone Management Act (CZMA) section 310; CFDA 11.426; and CFDA 11.463.

Response: As noted above, projects funded pursuant to the CZMA and the Act should complement each other. Based on our experience to date, NOAA does not see a need to provide more explicit guidance on this issue.

Comment 9: The language in Section X. Project Review relating to state and territorial review of projects, should be changed from ''projects in state or territorial waters'' to ''projects affecting state territorial waters.''

Response: NOAA believes the language contained in the draft Guidelines is consistent with the statutory construction of section 6403(f)(2)(A) of the Act which requires review by agencies ''with jurisdiction or management authority over coral reef ecosystems in the area where the project is to be conducted.'' NOAA has therefore retained that language in the final Guidelines. As the commenter has suggested language used in the application of the Federal Consistency provisions of the CZMA, NOAA notes that Federal consistency provisions do apply to Federal funding under the Coral Reef Conservation Program. Applicants should refer to the Coastal Zone Management Act Federal Consistency Regulations at 15 CFR part 930, to ensure compliance with these requirements.

Comment 10: A commenter representing a field office of the U.S. Fish and Wildlife Service, agrees with the objective to support coral reef conservation through a grant system. However, the commenter expresses concern that the guidelines are too vague regarding review and approval of projects occurring in areas administered by the Department of the Interior, specifically National Wildlife Refuges. The commenter recommends that the annual solicitations for project proposals inform readers that proposals submitted for activities within National Wildlife Refuges will be reviewed by the Service pursuant to the National Wildlife Refuge System Administration Improvement Act of 1997 and other relevant authorities. The commenter recommends adding a new sentence to Section IX. Application Process (subsection 5), as follows: ''Proposed projects within National Wildlife Refuges must be determined by the U.S. Fish and Wildlife Service, pursuant to the National Wildlife Refuge System Administration Improvement Act of 1997, to be compatible with established refuge purposes and management objectives in order for the Service to issue a Special Use Permit to conduct the proposed activities.''

Response: NOAA agrees with the need for projects that occur within National Wildlife Refuges to obtain all necessary authorizations and permits from the U.S. Fish and Wildlife Service. We believe that the language in Section IX of the guidelines are clear in requiring applicants to submit all applicable Federal permits. We have added language to the end of Section X of the guidelines which states that agencies with jurisdiction over proposed project, such as the U.S. Fish and Wildlife Service will provide assurance that the applicant is proceeding to obtain a permit or other authorization from that jurisdiction in order to conduct the project, and the status of that process. As noted in Section X(3)(b)(v) of the guidelines, NOAA will require applicants to obtain all required state and Federal permits as a condition of making an award.

Comment 11: A commenter representing a U.S. Territory recommends that the process for establishing national priorities include close consultation at the local level. The commenter also recommends shortening the time frame for NOAA's review and approval of proposed projects from 6 months to 2–4 months so that projects may begin on time.

Response: NOAA believes that the process used to develop the Guidelines and the Strategy has included adequate consultation regarding local priorities and needs, and further, that the coral grants program provides the necessary flexibility to meet those needs. NOAA agrees with the objective of reducing the time necessary for the review of coral grant applications; we believe the time line described in the FY 2002 is reasonable given the Act's requirements for application review by peers and affected jurisdictions, and NOAA's internal grant process.

In summary the Guidelines have been substantively changed in the following areas:

1. A new funding category has been added at Section VII (3) to provide potential funding for coral reef ecosystem research projects for the purpose of developing sound scientific information on the condition of coral reef ecosystems or threats to such ecosystems.

2. Section X has been modified to request that agencies that are reviewing applications provide NOAA with information on the need for the applicant to obtain a permit or other authorization from the agency in order to conduct the project, and the status of that process.

II. Electronic Access

The Coral Reef Conservation Act of 2000 and information on the U.S. Coral Reef Task Force, established June 11, 1998 under Executive Order 13089, can be found on the Internet at: *http://www.coralreef.noaa.gov.*

III. Coral Reef Conservation Program

The objective of the Program is to provide financial assistance for coral reef conservation projects consistent with the Act and the Strategy. NOAA's

role in administering the Program is to strengthen and support the development and implementation of sound coral reef conservation projects, as well as ensure that the most beneficial projects are recommended for funding.

IV. Applicant Eligibility Requirements

As per section 6403(c) of the Act, eligible applicants include: Any natural resource management authority of a state or other government authority with jurisdiction over coral reefs or whose activities directly or indirectly affect coral reefs or coral reef ecosystems, or educational or non-governmental institutions with demonstrated expertise in the conservation of coral reefs. Each subcategory of funding under this Program, as described in Section VII of this document, encompasses a specific subgroup of eligible applicants.

As a matter of policy, funding Federal agency activities under this Program will be a low priority unless such activities are an essential part of a cooperative project with other eligible governmental or non-governmental entities. In order for a Federal agency to receive an award under this program, it must provide the requisite statutory authority to receive funds from a federal agency for these purposes. Please note that the Economy Act, 31 USC 1535, is not sufficient legal authority because NOAA is not procuring goods or services from the federal agency.

NOAA agencies are not eligible for funding under this Program, as funding for such activities is provided for under section 6406 of the Act (National Program).

V. Eligible Coral Reef Conservation Activities

As described in section 6403(g) of the Act, projects considered for funding under this Program must be consistent with the Strategy, published concurrently in the **Federal Register**. In addition, per the same section, the Administrator may not approve a project proposal unless it will enhance the conservation of coral reefs by addressing at least one of the following:

1. Implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reefs;
2. Addressing the conflicts arising from the use of environments near coral reefs or from the use of corals, species associated with coral reefs, and coral products;
3. Enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reefs or regulate the use and management of coral reef ecosystems;
4. Developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems, including factors that cause coral disease;
5. Promoting and assisting to implement cooperative coral reef conservation projects that involve affected local communities, non-governmental organizations, or others in the private sector;
6. Increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long term conservation;
7. Mapping the location and distribution of coral reefs;
8. Developing and implementing techniques to monitor and assess the status and condition of coral reefs;
9. Developing and implementing cost-effective methods to restore degraded coral reef ecosystems; or
10. Promoting ecologically sound navigation and anchorages near coral reefs.

VI. Program Funding and Distribution

Section 6408(c) of the Act authorizes up to $8,000,000 for use by the Secretary for FY 2001 through FY 2004 for the Program. The number of individual awards to be made each year will depend on the total amount of funds appropriated for coral reef activities within NOAA and the portion of those funds that are allocated to this Program. The total annual Program funding amount, suggested ranges for funding requests, and specific funding categories under which an applicant may choose to apply will be published in the Program's annual **Federal Register** funding guidance.

Program funding awarded during any given fiscal year will be distributed, per section 6403(d) of the Act, in the following manner:

(1) No less than 40 percent of funds available shall be awarded for coral reef conservation projects in the Pacific Ocean within the maritime areas and zones subject to the jurisdiction or control of the United States;

(2) No less than 40 percent of funds available shall be awarded for coral reef conservation projects in the Atlantic Ocean, Gulf of Mexico and the Caribbean Sea within the maritime areas and zones subject to the jurisdiction or control of the United States; and

(3) Remaining funds shall be awarded for projects that address emerging priorities or threats, including international priorities or threats, identified by the Administrator. When identifying emerging threats or priorities, the Administrator may consult with the Coral Reef Task Force.

VII. Funding Categories and Mechanisms

In order to ensure adequate funding for each of the purposes envisioned under the Act and provide for a balanced overall Program, existing NOAA programs will be used to award funds in the six funding categories described below. Each of the six categories references the general activity and applicant eligibility requirements associated with proposals submitted therein. Specific activity and applicant eligibility information and proposal evaluation criteria for each category for FY 2002, consistent with Guideline sections IV. Applicant Eligibility Requirements, VI. Funding and Funding Distribution, VIII. Matching Funds, IX. Application Process, and X. Project Review, are found in the FY 2002 funding guidance, published concurrently with these Guidelines.

(1) *U.S. state and territorial government coral reef conservation activities,* as described in Section V(1–10) of the Guidelines (section 6403(g) of the Act) for the purpose of comprehensively managing coral reef ecosystems and associated fisheries within their jurisdictions. Eligibility to receive an award is limited to one agency in each state or territory with jurisdiction over coral reefs, as designated by the respective governors. These proposals will be reviewed and awarded by the National Ocean Service (NOS) Office of Ocean and Coastal Resource Management (OCRM), pursuant to section 310 of the Coastal Zone Management Act, under title, *Coastal Zone Management Program,* CFDA 11.419.

(2) *U.S. state and territorial government coral reef ecosystem monitoring and/or assessment activities*, as described in Section V(8) of the Guidelines (section 6403(g)(8) of the Act). Such activities include the collection, analysis, and reporting of long-term coral reef monitoring data pursuant to scientifically valid methodologies and protocols. Eligible applicants are limited to one natural resource management authority in each U.S. state or territory, or Freely Associated State with jurisdiction over coral reefs, as designated by the respective governors or other applicable senior jurisdictional officials. Cooperative agreements between these agencies and the NOS National Centers for Coastal and Ocean Science (NCCOS) will be developed without competition under title, *Financial Assistance for National Centers of Coastal Ocean Science,* CFDA 11.426.

(3) *Coral reef ecosystem research projects for the purpose of developing sound scientific information on the condition of coral reef ecosystems or threats to such ecosystems,* including research to develop monitoring and assessment technologies, as described in section V(4) of the Guidelines (section 6403(g)(4) of the Act). Eligible applicants include all those described under section 6403(c) of the Act (section IV of the Guidelines). These proposals will be reviewed and awarded by the NOS National Centers for Coastal and Ocean Science under title, *Financial Assistance for National Centers of Coastal Ocean Science,* CFDA 11.426.

(4) *U.S. state, territorial, or other governmental and non-governmental entities, not eligible under other categories,* for the purpose of implementing cooperative coral reef conservation, protection, restoration, research, or education projects, as described in Section V(1–10) of the Guidelines (section 6403(g) of the Act). These proposals will be reviewed and awarded by the National Marine Fisheries Service (NMFS) Office of Habitat Conservation (OHC) under title, *Habitat Conservation,* CFDA 11.463.

(5) *Projects to develop, improve, or amend Fishery Management Plans to conserve, protect and restore coral reef habitats and associated fishery populations within the U.S. Exclusive Economic Zone,* with the overall goal of improving the management of coral reefs and associated organisms through the avoidance of fishing impacts, ecosystem management or similar approaches and practices as described in Section V(3) of the Guidelines (section 6403(g)(3) of the Act). Eligible applicants include Regional Fishery Management Councils with jurisdiction over coral reefs, as established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). These proposals will be reviewed and awarded by the NMFS Office of Habitat Conservation under title, *Regional Fishery Management Councils,* CFDA 11.441.

(6) *International coral reef conservation projects* for the purpose of implementing cooperative coral reef conservation activities as described in Section V(1–10) of the Guidelines (section 6403(g) of the Act). Eligible applicants include all international governmental and non-governmental entities, including those in the Freely Associated States of the Pacific. These proposals will be reviewed and awarded by the NOS International Programs Office or the NMFS Office of Habitat Conservation, as appropriate, under title, *Habitat Conservation,* CFDA 11.463.

The FY 2002 funding guidance establishes the range of funds available and specific evaluation criteria for each of these six categories. NOAA may add additional funding categories in the annual funding guidance based on available funding and/or coral reef conservation priorities under the Strategy. Applicants will be required to specify in their application the category(s) under which they are applying for funding. Selected applications may be funded and awards administered by NOAA, through either NMFS or NOS. Generally, one award will be made for each proposal accepted for funding.

NOAA will determine the most appropriate funding mechanisms (grant, cooperative agreement, or interagency agreement) for selected individual projects, in consultation with the applicant, based on the type of recipient and on the degree of direct NOAA involvement with the project.

Proposals from non-Federal applicants that are selected for funding will be funded either through a project grant or cooperative agreement. Selected Federal proposals will be funded through interagency agreements; however, under the Program, such agreements must also include a local sponsor of the coral reef conservation project.

VIII. Matching Funds

As per section 6403(b)(1) of the Act, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total costs of such project. The match may comprise a variety of public and private sources and can include in-kind contributions and other non-cash support. NOAA strongly encourages applicants to leverage as much investment as possible. Federal funds may not be considered as matching funds.

For applicants who can not meet the match requirement, as per section 6403(b)(2) of the Act, the Secretary may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements:

(1) No reasonable means are available through which an applicant can meet the matching requirement, and

(2) The probable benefit of such project outweighs the public interest in such matching requirement.

Applicants must specify in their proposal the source and amount of the proposed match and may be asked to provide letters of commitment to confirm stated contributions. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver, as described in Section IX(6) of these Guidelines.

Notwithstanding any other provision herein, and in accordance with 48 U.S.C. 1469a(d), this Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contributions) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

IX. Application Process

NOAA will publish in the **Federal Register** one annual funding guidance soliciting project proposals, pursuant to these Guidelines. Applications submitted in response to this guidance will be screened for eligibility and conformance with the Program Guidelines.

To submit a proposal, a complete Federal financial assistance awards application package must be filed in accordance with the guidelines in this document and instructions in the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained the **Federal Register** notice of October 1, 2001.

A more detailed description of specific application requirements will be published in the annual funding guidance; however, pursuant to section 6403(e) of the Act and NOAA, each application must include the following elements:

(1) A cover sheet with the name of the individual or entity responsible for conducting the project;

(2) A description of the qualifications of the individual(s) who will conduct the project;

(3) A succinct statement of the purposes of the project, including the specific geographic location where the project will be carried out;

(4) An estimate of the funds and time required to complete the project including: a detailed breakdown by category of cost estimates as they relate to specific aspects of the project, with appropriate justification for both the Federal and non-Federal shares;

(5) Evidence of support for the project by appropriate representatives of states or other government jurisdictions in which the project will be conducted, including obtaining or proceeding to obtain all applicable State and/or Federal permits, consultations, and

consistencies. U.S. state or territorial applicants must also provide evidence of coordination with all relevant state or territorial agencies, including a list of agencies consulted in developing the proposal;

(6) Information regarding the amount of matching funding available to the applicant. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match;

(7) A description of how the project meets one or more of the goals and objectives stated in Section V of the Guidelines (section 6403(g) of the Act); and

(8) Any other information the Administrator considers to be necessary for evaluating the eligibility of the project for funding under this title.

In order to streamline the application and award process, and to allow NOAA to fully evaluate all coral reef conservation applications in the context of the overall Program, applicants must indicate under which category(s) (as described in Section VII of these Guidelines) they are seeking funds, and are encouraged to submit only one comprehensive application per funding guidance. The Program will give preference to projects where requested funding will be used to complete proposed coral reef conservation activities within a period of 12 to 18 months from the time the awards are distributed.

X. Project Review

As per section 6203(f) of the Act, NOAA will review eligible coral reef conservation proposals using an external governmental review and merit-based peer review. After such reviews, NOAA will implement an internal ranking and selection process. The overall project review and selection process will include the following five steps:

1. NOAA will request and consider written comments on the proposal from each Federal agency, state government, or other government jurisdiction, including the relevant regional Fishery Management Councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), or any National Marine Sanctuary, with jurisdiction or management authority over coral reef ecosystems in the area where the project is to be conducted. Pursuant to this requirement of the Act, NOAA will apply the following standard in requesting comments:

(a) Proposals for projects in state or territorial waters, including Federal marine protected areas in such waters (*e.g.,* National Marine Sanctuaries), will be submitted to that state or territorial government's designated U.S. Coral Reef Task Force point of contact for comment;

(b) Proposals for projects in Federal waters will be submitted to the relevant Fishery Management Council for comment;

(c) Proposals for projects which require Federal permits will be submitted to the Federal agency which issued the permit for comment;

(d) Proposals for projects in Federal marine protected areas managed by Federal agencies (*e.g.,* National Wildlife Refuges, National Parks, National Marine Sanctuaries, *etc.*) will be submitted to the respective Federal management authority for comment; and

(e) NOAA will seek comments from other government entities, authorities, and/or jurisdictions, including international entities for projects proposed outside of U.S. waters, as necessary based on the nature and scope of the proposed project.

Specifically, agencies will be requested to comment on: the extent to which the project is consistent with its coral reef conservation objectives, priorities and projects; whether the project has been coordinated with existing or planned projects; suggestions for improving project coordination and/or technical approach; the need for the applicant to obtain a permit or other authorization from the agency in order to conduct the project, and the status of that process; and, appropriate staff points of contact. Each entity will be provided 21 days to review and comment on subject proposals. Comments submitted will be part of the public record.

2. Each NOAA Program Office will provide for a merit-based peer review and standardized documentation of that review for proposals considered appropriate for funding under their respective category(s). Each proposal will be reviewed by a minimum of three individuals with knowledge of the subject of the proposal. The identities of the peer reviewers will be kept anonymous, to the extent permitted by law. Specific evaluation criteria for projects submitted under each funding category will be published in each annual **Federal Register** funding guidance.

3. Each NOAA Program Office will subsequently implement an internal review process to rank each proposal that is appropriate for funding under their program based upon consideration of: comments and recommendations from the reviews under paragraphs (1) and (2), and their evaluation of each proposal using the following five equally weighted criteria:

(a) *Direct Benefit to Coral Reef Resources and Ecosystems:* NOAA will evaluate proposals based on the potential of the project to meet goals and objectives as stated in this document, per section 6403(g) of the Act.

(b) *Technical Merit and Adequacy of Implementation Plan:* Proposals will be evaluated on the technical feasibility of the project and the qualifications of project leaders and/or partners based on demonstrated abilities to:

(i) Deliver the conservation objective stated in the proposal;

(ii) Provide educational benefits, where appropriate;

(iii) Incorporate assessment of project success in terms of meeting the proposed objectives;

(iv) Demonstrate that the conservation activity will be sustainable and long-lasting; and,

(v) Provide assurance that implementation of the project will meet all state environmental laws and Federal consistency requirements by obtaining or proceeding to obtain applicable permits and consultations.

(c) *Past Performance:* Proposals will be evaluated on the previous accomplishments of the applicants in achieving coral reef conservation objectives similar to those outlined in Section V. Eligible Coral Reef Conservation Activities of these Guidelines. Applicants submitting their first coral reef conservation project should document past experience in related activities.

(d) *Consistency with the National Coral Reef Action Strategy and the National Action Plan to Conserve Coral Reefs:* Proposals will be evaluated on how well they meet the specific programmatic goals and objectives of the National Coral Reef Action Strategy, developed pursuant to section 6402 of the Act, and the *National Action Plan to Conserve Coral Reefs* (U.S. Coral Reef Task Force, 2000), *http://www.coralreef.noaa.gov*). Applicants are strongly encouraged to review both documents and identify specific conservation objectives that their project proposal will address.

(e) *Cost-effectiveness and Budget Justification:* Proposals will be evaluated on their ability to demonstrate

that significant benefit will be generated for the most reasonable cost. Projects will also be reviewed in terms of their need for funding and the ability of NOAA funds to act as a catalyst to implement projects and precipitate partnerships and other sources of funding to achieve conservation objectives. Preference will be given to projects that will be completed within a period of 12 to 18 months from the time the awards are distributed.

4. A NOAA review panel made up of representatives from each NOAA Program Office will review the project selections and ensure that all requirements of the Act are met, particularly those regarding the geographic funding distribution and consistency with the Strategy. This group will present recommendations to the NOAA Administrator, or his designee, for final approval. NOAA reserves the right to consult with applicants, prior to making an award, to determine the exact amount of funds to be awarded, as well as the most appropriate funding category and mechanism under which to consider the project for funding.

5. NOAA will provide written notification of a proposal's approval or disapproval to each applicant within 6 months of submitting a coral reef conservation proposal. Similarly, NOAA will also provide written notification of a project's approval to each State or other government jurisdiction that provided comments and/or reviews. Unsuccessful proposals will be held in the Program Office until the cooperative agreement or grant is awarded to the selected recipients and then will be destroyed.

Definitions

In this Program:

(1) *Administrator* means the Administrator of the National Oceanic and Atmospheric Administration.

(2) *Conservation* means the use of methods and procedures necessary to preserve or sustain corals and associated species as diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat; mapping; habitat monitoring; assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*); law enforcement; conflict resolution initiatives; community outreach and education; and that promote safe and ecologically sound navigation.

(3) *Cooperative Agreement* means a legal instrument reflecting a relationship between the Department of Commerce (DoC) and a recipient whenever: (1) The principal purpose of the relationship is to transfer money, property, services or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute, and (2) substantial involvement (*e.g.*, collaboration, participation, or intervention by DoC in the management of the project) is anticipated between DoC and the recipient during performance of the contemplated activity.

(4) *Coral* means species of the phylum Cnidaria, including—

(a) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), Alcyanacea (soft corals), and Coenothecalia (blue coral), of the class Anthozoa; and,

(b) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

(5) *Coral Reef* means any reefs or shoals composed primarily of corals.

(6) *Coral Reef Ecosystem* means coral and other species of reef organisms (including reef plants) associated with coral reefs, and the non-living environmental factors that directly affect coral reefs, that together function as an ecological unit in nature.

(7) *Coral Products* means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

(8) *Grant* means a legal instrument reflecting a relationship between DoC and a recipient whenever: (1) The principal purpose of the relationship is to transfer money, property, services, or anything of value in order to accomplish a public purpose of support or stimulation authorized by Federal statute and (2) no substantial involvement is anticipated between DoC and the recipient during the performance of the contemplated activity.

(9) *Interagency Agreement*, for the purposes of these Guidelines, means a written document containing specific provisions of governing authorities, responsibilities, and funding, entered into between NOAA and another Federal agency where NOAA is funding the other Federal agency, pursuant to the Act.

(10) *Secretary* means the Secretary of Commerce.

(11) *State* means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

Classifications

This is a new Program and will be added to the Catalog of Federal Domestic Assistance under the Coastal Zone Management Act (11.419), Financial Assistance for National Centers for Coastal Ocean Science (11.426), and Habitat Conservation (11.463). The Program uses the Federal financial assistance award package requirements per 15 CFR parts 14 and 24.

The program will determine National Environmental Policy Act (NEPA) compliance on a project by project basis.

This action has been determined to be not significant for purposes of Executive Order 12866.

Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

The use of the Federal financial assistance award package referred to in this notice involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

The Guidelines also contain new collection-of-information requirements subject the Paperwork Reduction Act and which have been approved by OMB under control number 0648–0448. Public reporting burden for these collections of information is estimated to average one hour per request for a matching funds waiver (section IX(6) of these Guidelines) and one hour per comment on proposals (section X(1) of these Guidelines). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of these data collections, including suggestions for reducing the burden, to the NOAA Office of Response and Restoration, N/ORR, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910 and to Office of Management

and Budget (OMB) at the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503, Attention: NOAA Desk Officer.

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

Dated: April 15, 2002.

Alan Neuschatz,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 02–9682 Filed 4–18–02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 011113275–2038–03; I.D. 030602B]

RIN 0648–ZB11

Coral Reef Conservation Grant Program Fiscal Year 2002 Funding Guidance

AGENCY: National Marine Fisheries Service (NMFS), National Ocean Service (NOS), Commerce.

ACTION: Notice of Availability of Federal assistance for coral reef conservation activities.

SUMMARY: The purpose of this document is to advise the public that the National Oceanic and Atmospheric Administration (NOAA) is soliciting proposals for the NOAA Coral Reef Conservation Grant Program (Program), pursuant to the Coral Reef Conservation Act of 2000 (Act). The Act authorizes the Secretary of Commerce (Secretary), through the NOAA Administrator (Administrator) and subject to the availability of funds, to provide matching grants of financial assistance for coral reef conservation projects under the Program. This document provides the specific Fiscal Year (FY) 2002 Funding Guidance (Guidance) necessary to award $5,500,000, of which NOAA is providing $5,150,000 and the Department of Interior is providing $350,000 in Federal assistance, consistent with the NOAA Coral Reef Conservation Grant Program Implementation Guidelines (Guidelines), published concurrently with this Guidance. The Proposed Guidelines were published in the **Federal Register** for public comment on December 10, 2001. The information published in this Guidance includes: specific program eligibility criteria, available funding, proposal submission and selection dates, and detailed application requirements and proposal evaluation criteria. All applications submitted pursuant to this notice must be consistent with the requirements stated herein and in the Guidelines, and be consistent with the National Coral Reef Action Strategy (Strategy). NOAA is in the final stages of completing the Strategy, in consultation with the United States Coral Reef Task Force (USCRTF), as required under the Act. The purpose of the Strategy is to provide an implementation plan to advance coral reef conservation, including a basis for funding allocations to be made under the Program. Upon final completion of the Strategy, NOAA will publish notice of the Availability of the Strategy in the **Federal Register** and at: *www.coralreef.noaa.gov/*. Until such notice is provided, NOAA and applicants for coral reef grant funds provided under this notice shall use the *National Action Plan to Conserve Coral Reefs* (National Action Plan), dated March 2, 2000, in place of the Strategy. The Strategy and the National Action Plan share the same basic goals and objectives, thereby ensuring that the National Action Plan can provide sufficient guidance for the development and review of grant applications pursuant to this notice. The National Action Plan can be found at: http://coralreef.gov/. Applicants may also request copies of the National Action Plan from the contacts listed below.

DATES: Effective April 19, 2002.

ADDRESSES: Send all proposals to: David Kennedy, NOAA Coral Program Coordinator, Office of Response and Restoration, N/ORR, Room 10102, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910, Fax: 301–713–4389. Only written proposals will be accepted, no electronic mail applications will be accepted. Envelopes or faxes should be sent to the attention of one of the following proposal categories, as appropriate: State and Territory Coral Reef Management; Coral Reef Monitoring and Research; General Coral Reef Conservation; Projects to Improve or Amend Coral Reef Fishery Management Plans; and International Coral Reef Conservation.

FOR FURTHER INFORMATION CONTACT: See **SUPPLEMENTARY INFORMATION** for telephone and e-mail addresses of contacts for this program.

SUPPLEMENTARY INFORMATION:

Contacts for Specific Information

Administrative questions should be directed to Bill Millhouser, 301–713–3155, extension 189 or e-mail at *bill.millhouser@noaa.gov*.

Technical point of contact for State and Territory Coral Reef Management is Bill Millhouser, 301–713–3155, extension 189 or e-mail at *bill.millhouser@noaa.gov*.

Technical point of contact for State and Territory Coral Reef Monitoring and Research is Ruth Kelty, 301–713–3020, extension 133 or e-mail at *ruth.kelty@noaa.gov*.

Technical point of contact for General Coral Reef Conservation is Tom Hourigan, 301–713–2319, extension 121 or e-mail at *tom.hourigan@noaa.gov*.

Technical point of contact for Projects to Improve or Amend Coral Reef Fishery Management Plans is Tom Hourigan, 301–713–2319, extension 121 or e-mail at *tom.hourigan@noaa.gov*.

Technical point of contact for International Coral Reef Conservation is Arthur Paterson, 301–713–3078, extension 217 or e-mail at *arthur.e.paterson@noaa.gov*.

NOAA announces the availability of $5,500,000 of Federal assistance in FY 2002 for Coral Conservation Activities. NOAA is providing $5,150,000 and the Department of Interior (DOI) is providing $350,000. These funds will be used to support the following six program areas: State and Territory Coral Reef Management; State and Territory Coral Reef Monitoring; State and Territory Research to support monitoring technologies; General Coral Reef Conservation; Projects to Improve or Amend Coral Reef Fishery Management Plans; and International Coral Reef Conservation. The amount of funds available, and the application requirements for each program area are defined in Sections IV-IX of this notice. Selected recipients will enter into either a cooperative agreement with the NOAA Office responsible for the program or receive a grant depending upon the amount of NOAA's involvement in the project. Substantial involvement means a cooperative agreement, while independent work requires a grant.

All applicants are required to submit a Federal financial assistance awards package and proposal write-up as described in the relevant program section below. The financial assistance awards package (which includes forms SF–424, SF–424A, SF–424B, CD–511, CD–512, and SF-LLL) can be obtained from the NOAA grants Website at *http://www.rdc.noaa.gov/grants/pdf*. For each proposal submitted, applicants are required to prepare one original and two

signed copies for each application package.

The number of awards made under this Program as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested by eligible applicants, the merit review and ranking of the proposals, the application of the geographic and biological diversity requirements of 16 U.S.C. 6403(d), and how well the proposal satisfied the criteria in 16 U.S.C. 6403(g). As a result, awards may not necessarily be made to the highest scoring proposals. Successful applicants may be asked to revise award objectives, work plans, or budgets prior to final approval of an award. The exact amount of funds to be awarded, the final scope of activities, the project duration, and specific NOAA cooperative involvement with the activities of each project will be determined in pre-award negotiations among the applicant, the NOAA Grants Management Division (GMD), and the relevant NOAA staff. Projects should not be initiated in expectation of Federal funding until a notice of award document is received from the NOAA GMD. Publication of this document does not obligate NOAA to award any specific project or obligate all or any part of available funds.

I. Authority

Statutory authority is provided under Section 6403 (Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6403 *et seq.*). Each program's Catalog of Federal Domestic Assistance (CFDA) number can be found in the specific program information included below, Sections IV–IX.

II. General Background

Rather than develop a new grant program under the Act, NOAA's approach to implementing this Program was to draw together existing financial assistance programs under the umbrella of the Program.

III. Application and Selection Schedule

Applications must be received by NOAA before 5 p.m. Eastern Daylight Time on the dates specified below. Applicants should consider the delivery time when submitting their applications from international or remote areas. Selected proposals will receive funding no later than October 1, 2002. The following review and selection timetable applies to all proposals under the Program:

Applications due to NOAA—May 24, 2002

NOAA returns proposal comments and notice of intent to fund to applicants—June 28, 2002

Final Applications due to NOAA—July 19, 2002

The NOAA Grants Officer or the Program Officer for each grant program, as appropriate, will provide each applicant with written notice of the final funding decision on or before September 30, 2002.

IV. State and Territory Coral Reef Management

A. Program Description

This description provides requirements for applying for funding appropriated by Congress to NOAA and DOI in FY 2002 to support comprehensive programs for the conservation and management of coral reefs and associated fisheries in the jurisdictions of Puerto Rico, the U.S. Virgin Islands (USVI), Florida, Hawaii, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and American Samoa.

NOAA's National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM) and National Marine Fisheries Service (NMFS) Office of Habitat Conservation (OHC), and DOI Office of Insular Affairs (OIA) are jointly providing approximately $2,100,000 in funding for cooperative agreements to support state and territorial coral reef and coral reef fishery management and conservation activities as listed in E(2) below.

Each jurisdiction need only develop and submit one comprehensive coral reef management application for the funds available under this section. The Federal agencies will coordinate their reviews of each application to ensure comparability and continuity. It is anticipated that OCRM will make awards to four of the seven jurisdictions and that DOI/OIA will make awards to the remaining three jurisdictions.

B. Eligibility Criteria

The eligible applicants are the governor-appointed point of contact agencies for coral reef activities in each of the jurisdictions of American Samoa, Florida, CNMI, Guam, Hawaii, Puerto Rico, and USVI. To be eligible for FY 2002 funding, the jurisdiction must have made reasonable progress in completing tasks under applicable FY 2000 and FY 2001 coral management awards, as evidenced in the required performance and financial reports.

C. Funding Availability and Mechanism

1. Funding Available

Approximately $2,100,000 in FY 2002 funding is available for Coral Reef and Coral Reef Fishery Management cooperative agreements. Support in out years after FY 2002 is contingent upon the availability of funds and the requirements of the Federal agency supporting the project. Each jurisdiction is eligible to receive an award ranging from a minimum of $225,000 to a maximum of approximately $400,000.

2. Funding Mechanism

Cooperative agreements will be awarded to each eligible jurisdiction. Proposals should cover a project period of 12 to 18 months with an anticipated start date of October 1, 2002.

D. Matching Funds

The requirements for matching funds under Section VIII of the Guidelines are applicable to funding available under this program. Specific information to be submitted in regard to matching funds can be found in the Proposal Content and Format Section below.

E. Proposal Content and Format

1. Proposal Content

Applications should reflect the National Coral Reef Action Strategy, the U.S. Coral Reef Task Force National Action Plan to Conserve Coral Reefs, and local strategies for coral reef management, such as the 1999, U.S. All Islands Coral Reef Initiative Strategy, as modified by the events and activities of the last 3 years. In addition, proposed activities should be coordinated, where appropriate, with ongoing and proposed NOAA coral reef mapping, monitoring, coastal zone and fishery management initiatives, and DOI Fish and Wildlife Service and National Park Service coral reef activities.

In developing the application, state and territorial applicants must consult with all relevant governmental and non-governmental entities involved in coral reef activities in their respective jurisdictions. Those agencies consulted must include coastal zone management, water quality, and wildlife and/or marine resource agencies.

Funding under this award is also intended to support jurisdictional participation in national coral reef planning activities, such as U.S. Coral Reef Task Force meetings. As such, applicants should include in their proposal, anticipated travel costs associated with attendance and participation at U.S. Coral Reef Task Force and other relevant meetings and conferences.

Applicants may submit applications covering up to an 18–month period. Applicants must meet all applicable Department of Commerce (DOC) or DOI grant requirements, and submit, with the final application package, all required Federal financial assistance awards forms. One original and two signed copies of the complete application must be submitted by the applicant to NOAA by the indicated due date.

2. Proposal Format

In developing the proposal, the applicant must organize proposed tasks into the following eleven (11) categories, which are based on those found in the National Action Plan to Conserve Coral Reefs:

a. *Coral Reef and Associated Coastal Management Activities Including Marine Protected Area Management and Development*, *e.g.*, tasks to forward the conservation and management of coral reefs through planning, designation, implementation and evaluation of marine protected areas; including personnel training, equipment procurement, signage, monitoring and enforcement, etc.,

b. *Mapping, Aerial Photography, and Digital/Satellite Imagery for Reef Conservation*, *e.g.*, developing benthic habitat maps or other Geographic Information System (GIS) data layers, etc., (such activities should be coordinated with the NOS coral mapping program),

c. *Monitoring and Assessment of Coral Reefs or Reef Resources*, *e.g.*, baseline characterizations of reef ecosystems, workshops to standardize methods, database system development, purchase of equipment, training, etc. (Note: most, if not all of proposed monitoring projects, should be funded under the National Centers for Coastal and Ocean Science (NCCOS) Coral Reef Monitoring grant program discussed in Section V. below),

d. *Targeted Research to Support Management*, *e.g.*, nutrient input modeling, coral recruitment studies, etc.,

e. *Socio-economic and Resource Valuation*, *e.g.*, economic valuations, alternative income generation workshops, etc.,

f. *Reducing Habitat Destruction*, *e.g.*, coastal zone management, vessel grounding prevention and management, mooring buoy installation, etc.,

g. *Reducing Pollution*:

(1) Oil-spill prevention and response, *e.g.*, developing response plans, personnel training, interagency coordination, etc.;

(2) Marine debris prevention and removal, *e.g.*, developing prevention policies, collection and disposal of debris, etc.; and

(3) Reducing impacts from land-based/watershed pollution source, *e.g.*, Best Management Practices (BMP) planning and implementation, watershed restoration projects, etc.

h. *Invasive Alien Species Management*, *e.g.*, policy development, mitigation projects, etc.,

i. *Coral Reef Restoration*, *e.g.*, damage mitigation, coral transplantation, monitoring of restoration sites, etc.,

j. *Public Education and Outreach*, *e.g.*, brochures and other informational materials, public meetings and workshops, etc., and,

k. *Coral Reef Fisheries Management*, in FY 2002, NMFS OHC has provided $350,000 of the total $2,100,000 to fund priority state and territorial coral reef fishery management activities. Proposed funding for coral reef fishery management tasks should range from $40,000 to $60,000 per jurisdiction, and should be budgeted within the jurisdiction's $225,000 to $400,000 comprehensive proposal. The mandate of NMFS is to build sustainable fisheries, recover protected species, and sustain healthy habitats for these species. These tasks should be developed in the same format as the other coral reef management tasks and included and submitted in the comprehensive application. Examples of eligible projects include:

(1) Assessment and monitoring of fish and fishery resources, collection of fishery information;

(2) Analysis of fishery impacts on reefs and support for the implementation of fishery gear restrictions or other priority regulations;

(3) Development of fishery reserves;

(4) Activities to improve management of ornamental reef species for the aquarium industry;

(5) Hiring or training of enforcement officers; and,

(6) Outreach and education on fishery and endangered species issues.

Large equipment and/or infrastructure acquisitions are not a priority for funding under this program. Such purchases proposed herein will be reviewed on a case by case basis with respect to the specific management objectives of this and the local coral reef program.

For each category in which a task is proposed, the applicant should include the following information:

a. A brief introduction that describes the status of the issue in the jurisdiction as addressed by the proposed task; recent actions undertaken to address the issues, with a focus on the status of previous federally funded tasks; the jurisdiction's strategy to address critical needs over the medium term; and, a justification for the proposed task.

b. A description of each proposed task that must include:

(1) Clear identification of the work to be completed, who will perform the work, relationship to ongoing projects and how the project fits into the jurisdiction's strategy for addressing the issue;

(2) How the project coordinates with relevant local governmental and non-governmental agencies and, if applicable, NOAA or DOI regional activities;

(3) Task timetable with interim benchmarks and clearly-defined work products; and,

(4) Project priority as compared to all other proposed projects.

c. A Summary Budget that includes a detailed breakdown of costs by category and information regarding the amount of matching funds available to the applicant, pursuant to Section IX(6) of the Guidelines. Intended sources of matching funds must be identified in the application. Applicants whose proposals are selected for funding will be required to submit with the final application, letter(s) of commitment to fund from the organization(s) providing matching funds.

F. Proposal Evaluation and Selection Criteria

1. Evaluation Criteria

Applications will be peer-reviewed by individuals with coral reef and fisheries management experience on the following equally weighted evaluation criteria, as evidenced by information in the application:

a. Documented need for the proposed coral reef management activity to fill gaps in the jurisdiction's management capacity;

b. Demonstrated coordination with applicable ongoing local, state, territorial, and Federal coral reef management activities;

c. Technical merit of the proposed management activity; and,

d. Ability of the work to be completed for the funding and timing proposed.

Subsequently, a Federal agency team of representatives from NMFS, OCRM, and OIA will review the applications, pursuant to equally weighted criteria described in Section X(3) of the Guidelines and comments received from peer reviewers. Based on this review, the team will make preliminary funding allocation recommendations for each jurisdiction.

2. Selection Criteria

OCRM will then provide a notice of intent to fund and proposal comments to each selected applicant. These comments will include input from peer reviewers and the Federal agency team and are intended for use in the applicant's development of the final application.

Upon receipt of the final application, complete with the requisite Federal financial assistance forms, the Federal agency team will review the complete package and make final funding recommendations based on the response to comments that were returned to the applicant. The team will submit these funding recommendations to the NOAA review panel for final review, pursuant to Section X(4) of the Guidelines.

If one or more applicants are ineligible to receive an award, NOAA and DOI will consult with the eligible applicants on the use of any residual funds. NOAA and DOI will work with each jurisdiction to ensure the greatest degree of success in meeting local, state, territorial, and national coral reef management needs.

G. Program Authority

Specific authority for the NOAA program is found in 16 U.S.C. 6403. NOAA proposals will be reviewed and awarded by OCRM under title, *Coastal Zone Management Program*, CFDA Number: 11.419.

V. State and Territory Coral Reef Ecosystem Monitoring

A. Program Description

This description provides requirements for applying for funding appropriated by Congress to the NOAA in FY 2002 to support state and territorial coral reef ecosystem monitoring. This program will be administered by NOS's National Centers for Coastal and Ocean Science.

NOAA and its partners designed and are implementing a nationally coordinated, comprehensive, long-term program to monitor and predict the condition of U.S. coral reef ecosystems. This program was requested by the U.S. Coral Reef Task Force, which, along with the nation's coral reef program managers and the public, endorsed and called for implementation of ''A National Program to Assess, Inventory, and Monitor U.S. Coral Reef Ecosystems.''

NOAA began implementing the Program in 2000 and continues to administer it with Congressional appropriations for coral reef conservation. The Program includes the collection, analysis, and reporting of long-term coral reef ecosystem monitoring data pursuant to scientifically valid methodologies and protocols and is a key priority of the National Coral Reef Action Strategy.

The implementation plan calls for integration of now-disparate monitoring sites into a coordinated national network, sharing of monitoring information among U.S. coral reef resource managers and scientists, and filling gaps in monitoring coverage nationwide. Through this Program, U.S. Federal, state, commonwealth, and territorial agencies support a variety of local and regional assessments, inventories, and monitoring of U.S. coral reef resources. Additionally, there are several regional volunteer and community monitoring programs regularly assessing reef resources. A nationally coordinated coral monitoring infrastructure will enable the preparation of a biennial science-based report on the condition or ''health'' of U.S. coral reef ecosystems and support local coral reef management efforts.

The nation's coral reef resource managers have recommended a minimum suite of key biotic and abiotic parameters that should be monitored at all local sites in the national monitoring network:

1. Benthic habitat characterization (*e.g.*, depth, habitat delineation, and/or percent live/dead cover of corals, submerged aquatic vegetation, macroalgae, sponges, rugosity, diversity, etc.);

2. Associated biological community structure including fish condition (*e.g.*, abundance, density, size, diversity, disease, harvest trends) and large motile and sessile invertebrates condition (abundance, density, size, diversity, disease, harvest trends); and,

3. Water/substrate quality (*e.g.*, temperature, nutrient enrichment, toxic chemicals, turbidity).

Proposed work should include multi-organizational partnerships (local, regional, Federal, and even international) that build local capacity for maintaining long-term monitoring sites as part of a National Coral Reef Monitoring Network. NOAA will be an active partner in the development and implementation of the award; thus, proposals should be structured as cooperative agreements between NOAA and the principal investigators. For these proposals, it is appropriate to include the equipment necessary to build capacity to archive biotic transects (*e.g.*, one or more digital videography cameras with underwater housing, museum maintenance of reference specimen collections, etc.).

B. Eligibility Criteria

Eligible applicants are limited to the natural resource management agency in each U.S. state or territory, or Freely Associated State with jurisdiction over coral reefs, as designated by the respective governors or other applicable senior jurisdictional official. NOAA is requesting proposals from Puerto Rico, Florida, U.S. Virgin Islands, Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands. Federal agencies are not eligible for funding under this Program.

C. Funding Availability and Mechanisms

1. Funding Available

Approximately $800,000 will be available in FY 2002 for coral reef ecosystem monitoring activities under this program. FY 2002 awards to each jurisdiction are expected to range from $50,000 to $100,000.

2. Funding Mechanism

Funds will be administered though non-competitive cooperative agreements between eligible organizations and NCCOS. Applicants may submit proposals up to 3 years in duration, at funding levels between $50,000–100,000 per year (*i.e.*, up to $300,000 for 3 year continuation proposals). FY 2002 awards, however, will only provide funding for the monitoring activities proposed for FY 2002, and funding for out years is contingent on subsequent years' appropriations. Multiple-year proposals must specify the budget and activities for each year. Annual projects should follow the Federal fiscal year, beginning on October 1 and ending September 30.

D. Matching Funds

The requirements for matching funds under Section VIII of the Guidelines are applicable to funding available under this program. Specific information to be submitted in regard to matching funds can be found in the Proposal Content and Format section below.

E. Proposal Content and Format

1. Content

Proposal content should be developed and submitted according to the following guidelines:

a. *First time applicants for monitoring awards*: Eligible activities for the first year of proposed funding (*i.e.*, FY 2002) include an initial characterization of baseline ecosystem condition, an inventory/mapping of biotic resources,

and an assessment of anthropogenic stressors (*e.g.*, contaminants in lagoon sediments, sedimentation conditions, eutrophication, etc.) if these studies are prerequisite to establishing new long-term monitoring sites. Activities can also include database development and training of field crew. Proposed second and third year work should follow the guidelines for previous recipients below.

b. *Previous recipients of NCCOS monitoring awards*: Proposals from previous recipients should detail the monitoring design, sampling parameters and protocols, data management, and the need/context for establishing new long-term monitoring sites. Proposals should describe how the proposed monitoring meets local coral conservation needs and fits into ongoing long-term assessments, inventories, and monitoring within the jurisdiction and/or region. Each proposal must provide enough specificity on the parameters to be monitored, the design and frequency of sampling, methods used, data management and quality assurance, and other information for peer-reviewers to judge the quality of proposed work. Of particular importance to creating a National Coral Reef Monitoring Network, each proposal must also address (1) how compatible the proposed data (*e.g.*, data confidence limits, standardized protocols) will be with other jurisdictional and regional databases, and (2) when and in what format the data will be available to NOAA. The information produced through these awards is intended to fill gaps in knowledge of coral reef ecosystems nationwide, track and predict changes in coral reef ecosystems nationwide, and serve as the foundation for biennial reporting in the *Report of the Health of U.S. Coral Reef Ecosystems*.

In addition, each jurisdiction's proposal for FY 2002 must include the preparation of a comprehensive assessment of coral reef ecosystem health in FY 2003. This will be each jurisdiction's contribution to the *Report on the Health of U.S. Coral Reef Ecosystems: 2004*. Toward this end, FY 2002 proposals may budget for travel to at least one national workshop, costs for preparing and printing a jurisdictional report on the condition of coral reef ecosystems, and related expenses.

2. Proposal Format

Applicants must submit proposals in the following format:a. *A Statement of Work* (*i.e.*, narrative description) for each proposed task that includes: the specific priority management questions that are driving the effort, how data collected will be translated and transferred to the local management community, project objectives, and a timetable with project milestones;

b. *A Summary Budget* that includes a detailed breakdown of costs by category and a description of the amount of matching funds available to the applicant, as described in Section IX(6) of the Guidelines. Intended sources of matching funds must be identified in the application. Applicants whose proposals are selected for funding will be required to submit letter(s) of commitment to fund from the organization(s) providing matching funds with the final application. Multiple-year proposals must specify the budget and activities for each year;

c. *Curriculum Vitae* for principal investigators;

d. *Summary Project Abstract*; and,

e. *All required NOAA Federal financial assistance awards* forms (see below). One original and two copies of the jurisdiction's application must be submitted to NOAA by the indicated due date.

The NOAA Grants Management Division program web site, *http://www.rdc.noaa.gov/grants/index.html*, provides detailed application instructions and electronic versions of Federal financial assistance forms. The two most relevant sections at this web site are, ''C. Instructions and Guidelines,'' and, ''D. Application Forms for Initial Proposal Submission.'' Applicants should review their application package prior to submission and be sure that all blocks on forms SF 424, SF–424A, SF–424B, CD–511, CD–512, and SF-LLL have been filled in completely.

Special note for monitoring program applicants filling out form SF–424: A paragraph explaining the qualification of the principal investigator's organization to do this work should be included in the Description of Work. The title should be *Financial Assistance for National Centers of Coastal Ocean Science*. In Block 13, the start date is always the first of the month; for ease in administering these as a block of grants, NOAA would prefer October 1, 2002, as the start date for all these cooperative agreements.

F. Proposal Evaluation and Selection Criteria

1. Evaluation Criteria

Proposals will be peer-reviewed by a small panel of representatives from relevant state, Federal and island agencies as well as the jurisdictional coral reef Points of Contact (POCs) (each POC will be asked to review one or more proposals from other jurisdictions, but never their own). Proposals will be peer-reviewed on the following criteria:

a. The jurisdiction's need for such work to fill gaps in monitoring coverage and build local capacity for long-term monitoring of coral reef ecosystems;

b. The quality of the proposed science and potential for the resulting data to be incorporated into a National Monitoring Network;

c. The ability of the principal investigators to conduct such work; and,

d. Support for the All Islands Coral Reef Initiative, in applicable jurisdictions.

Reviewer results will be shared with applicants, and applicants will be given the opportunity to revise their application and/or respond to reviewer comments.

Taking into consideration comments received from peer reviewers, NCCOS will evaluate each proposal and develop funding recommendations based on the criteria in Section X(3) of the Guidelines. In evaluating the technical merit and adequacy of the implementation plan, NCCOS will apply the following three equally weighted criteria:

a. *Relevance to establishing a national monitoring network*. The principal objective of the proposals should be to fill priority gaps or needs in coral reef monitoring and assessment programs, such that they contribute to the creation of a comprehensive and coordinated network of monitoring sites for U.S. coral reef ecosystems. In subsequent years, the project should be monitoring the ''minimum suite of key biotic and abiotic parameters,'' (as listed in the program description) at least once a year, at one or more sites;

b. *Quality assurance and error estimates for parameter measurements*. Flexibility of methodologies for acquiring measurements is allowable, as long as they are done in situ and are quantitatively reliable within a jurisdiction and across a region. Where possible, NOAA favors a stratified random sampling design for site selection (*i.e.*, ideally based on reliable habitat maps), multi-methodological monitoring of the ecosystem (*i.e.*, line transects for cryptic species, point-count surveys for large pelagic species), and sample archiving (*i.e.*, species reference collections, transect/survey videographic records); and

c. *Potential to meet data reporting requirements and the ability of transferring the data to the local or regional management community*. Data from proposals must be useful in preparing the biennial report on the *Health of U.S. Coral Reef Ecosystems*.

Grant recipients will provide raw or synthesized data to NCCOS no latter than 3 months after data collection. The data generated in the National Coral Reef Ecosystem Monitoring Program will by used by NOAA and its partners to develop regional and national state of the reef reports and disseminated to the public via NOAA's Coral Reef Information (CoRIS) Web site, currently under development. Biotic data integrity is critical for sharing of information and detection of national/regional trends and hotspots. Each jurisdiction will need to have basic data management quality controls and quality assurances for its data. Funding eligibility for future funding years will be contingent on meeting data submission deadlines including all reporting requirements and data transfers.

2. Proposal Selection

Based on these reviews, NCCOS will provide a notice of intent to fund and proposal comments to each selected applicant. These comments will include input from peer reviewers and the Federal agency team and are intended for use in the applicant's development of the final application.

Upon receipt of the final application, complete with the requisite Federal forms, the Federal agency team will review the complete package and make final funding recommendations based on the incorporation and/or response to comments that were returned to the applicant. NCCOS will submit these funding recommendations to the NOAA review panel for final review, pursuant Section X(4) of the Guidelines.

G. Program Authority

Specific authority for this program is found in 16 U.S.C. 6403. Proposals will be reviewed and awarded by NCCOS under title, *Financial Assistance for National Centers of Coastal Ocean Science*, CFDA 11.426.

VI. State and Territory Research to Support Development of Monitoring Technologies and Assessments

A. Program Description

This program supports the development and field-testing of methods to assess and monitor coral reef ecosystem health, function, and resilience. These are critical components of a research program to support the monitoring of coral reef ecosystems as outlined in the Strategy. Advances in technologies and assessment techniques using remote sensing, in situ observations, high-end computing, and integrative biological and physical measurements need to be incorporated into the ''toolbox'' available to coral reef ecosystem managers. For example, models and assessments will assist resource managers in evaluating alternative management strategies to improve the health of coral reef ecosystems.

Research is also needed to address development of appropriate indicators to define coral ecosystem health and function of reef ecosystems, such as coral and fish recruitment sources and sinks and explicit coupling of biological and physical models. These activities will directly support the NCCOS National Coral Reef Ecosystem Monitoring Program's key research questions relevant to establishing monitoring techniques that provide quantitative measures of coral ecosystem health, including reproduction, recruitment, growth, and survival of coral communities. In addition, the benefits from these research activities and subsequent products are directly applicable and will be applied to monitoring programs throughout the regions where they are conducted, as well as nationally.

B. Eligibility Criteria

Eligible applicants are those U.S. state and territory organizations eligible for cooperative agreements under the State and Territory Coral Reef Monitoring program described above. As such, eligible applicants are limited to the natural resource management agency with jurisdiction over coral reefs, as designated by the respective governors, in Puerto Rico, Florida, the U.S. Virgin Islands, Hawaii, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. Multi-organizational partnerships with local, regional, Federal, international and academic partners, are highly encouraged. Federal agencies are not eligible for direct funding under this program.

C. Funding Availability and Mechanisms

1. Funding Available

Approximately $300,000 will be available in FY 2002 for targeted research that supports the NCCOS National Coral Reef Ecosystem Monitoring Program. Two awards of approximately $150,000 each will be made to eligible organizations. One award each will be made to an organization in the Pacific and Caribbean Regions. These funds are intended to enhance FY 2002 coral reef ecosystem monitoring awards to territory and state cooperative partners under the National Coral Reef Ecosystem Monitoring Program.

2. Funding Mechanism

Funds will be awarded through cooperative agreements developed between NCCOS and the selected agency. Proposals must be included as an addendum to the Coral Monitoring application submitted by the eligible agency under that program; however, multi-organizational partnerships with local, regional, Federal, international and academic partners, are highly encouraged. As such, a joint monitoring and research grant application package must be submitted. The application must include separate monitoring and research budget sheets and project descriptions.

Applicants may submit proposals up to 3 years in duration, at funding levels up to $150,000 per year (*i.e.*, up to $450,000 for 3 year continuation proposals). FY 2002 awards, however, will only provide funding for the activities proposed for FY 2002, and funding for out-years is contingent on subsequent years' appropriations. Multiple-year proposals must specify the budget and activities for each year.

D. Matching Funds

The requirements described under the State and Territory Coral Reef Ecosystem Monitoring program apply to funding available under this program.

E. Proposal Content and Format

1. Proposal Content

Due to limited funding, only proposals that address the following two national monitoring program research priorities will be considered for funding:

a. Development of coral health indicators using remotely sensed oceanographic data; specifically developing meso-scale characterizations of bio-optical water quality to predict coral health at locations affected by land based run-off and/or other point and non-point source pollution; and,

b. Development of indices that identify threshold criteria of reproductive stress, recruitment failure, and/or mortality.

Applications must include an integrated research team made up of appropriate coral managers, research organizations, and other relevant local, regional, Federal, and international partners. Applicants must demonstrate capacity to perform such research, provide a topical publication history, and have a well-established field and laboratory infrastructure to be considered for this research grant.

Proposals that have rigorous quality assurance and error estimates for parameter measurements are encouraged. There will be flexibility of methodologies for acquiring measurements as long as they are done in situ and are quantitatively reliable within a jurisdiction and across a region.

Products and data from proposals must be useful in developing coral management strategies under the appropriate authorities, and in the development of future biennial reports on the health of U.S. coral reef ecosystems (through monitoring). As such, applicants who have demonstrated working relationships with management authorities are preferred.

All data must be made accessible to NOAA in a timely fashion for data archiving. Summaries of data will be required on at least an annual basis. Each proposal must address what specific, priority management questions are driving the effort and how its data will be translated and transferred to the local and regional management community.

2. Proposal Format

Applicants must submit proposals in the following format:

a. *Introduction* explaining how the project will help the National Monitoring Network;

b. *Rationale*;

c. *Link to Existing Coral Reef Ecosystem Monitoring Study* in the jurisdiction where the project is proposed;

d. *Anticipated Outcomes*;

e. *Milestone Dates*;

f. *A Summary Budget* that includes a detailed breakdown of costs by category and a description of the amount of matching funds available to the applicant, as described in Section IX(6) of the Guidelines. Intended sources of matching funds must be identified in the application. Applicants whose proposals are selected for funding will be required to submit with the final application, letter(s) of commitment to fund from the organization(s) providing matching funds; and,

g. *Personnel*.

F. Proposal Evaluation and Selection Criteria

1. Evaluation Criteria

Proposals will be peer-reviewed by a small panel of representatives from relevant state, Federal and island agencies as well as the jurisdictional coral reef Points of Contact (POCs). Each POC will be asked to review one or more proposals from other jurisdictions. Reviewer results will be shared with applicants, and applicants will be given the opportunity to revise their application and/or respond to reviewer comments. Proposals will be peer-evaluated on the following equally weighted criteria:

a. The potential to meet reporting requirements in a timely manner, to provide data and research products to NOAA's Coral Reef Information System (CoRIS) Web site, currently under development;

b. The demonstrated capacity of the applicant to perform the proposed research; and,

c. The proposed quality assurance and error estimates and their relevance to the development of coral reef ecosystem management strategies and the biennial reports on the health of U.S. coral reef ecosystems. As such, applicants who have demonstrated working relationships with management authorities are preferred.

Taking into consideration comments received from peer reviewers, NCCOS will review the applications, pursuant to equally weighted criteria described in Section X(3) of the Guidelines. Based on this programmatic review, the team will make preliminary funding decisions.

2. Selection Criteria

NCCOS will then provide a notice of intent to fund and proposal comments to each selected applicant. These comments will include input from peer reviewers and NCCOS review and are intended to be used in the applicant's development of the final application.

Upon receipt of the final application, complete with the requisite Federal forms, NCCOS will review the complete package and make final funding recommendations based on the incorporation and/or response to comments that were returned to the applicant. NCCOS will submit these funding recommendations to the NOAA review panel for final review, pursuant to Section X(4) of the Guidelines.

G. Program Authority

Specific authority for this program is found in 16 U.S.C. 6403. Proposals will be reviewed and awarded by NCCOS under title, *Financial Assistance for National Centers of Coastal Ocean Science*, CFDA Number 11.426.

VII. General Coral Reef Conservation

A. Program Description

This description provides guidance for applying for funding appropriated by Congress to NOAA in FY 2002 to support efforts by governmental and non-governmental entities to conserve the coral reef ecosystems of the United States and the Freely Associated States in the Pacific (Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia). This program will be administered by the National Marine Fisheries Service (NMFS) Office of Habitat Conservation (OHC).

The objective of this program is to support programs and projects in U.S. states and territories and the Freely Associated States, including projects that involve local communities and non-governmental organizations, to:

1. Help preserve, sustain and restore the condition of coral reef ecosystems;

2. Promote the wise management and sustainable use of coral reef resources;

3. Develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems; and

4. Increase public knowledge and awareness of coral reef ecosystems and issues regarding their conservation.

B. Eligibility Criteria

Eligible applicants include institutions of higher education, non-profit organizations, commercial organizations, state, local and Indian tribal governments and natural resource management authorities with demonstrated expertise in the conservation of coral reefs, or with jurisdiction over coral reefs, or whose activities directly or indirectly affect coral reefs or coral reef ecosystems. Proposals from U.S. state and territory government agencies will only be accepted for projects which promote advances in coral reef conservation and management issues of National or Regional importance and include partnerships with organizations not eligible under other sections. Core state and territorial coral reef management activities should be funded under Section IV above. Federal agencies are eligible under this program; however, pursuant to Section IV of the Guidelines, such proposals will be a low priority unless they are an essential part of a cooperative project with other eligible governmental or non-governmental entities. In order for a Federal agency to receive an award under this program, it must provide the requisite statutory authority to receive funds from a federal agency for these purposes. Please note that the Economy Act, 31 U.S.C. 1535, is not sufficient legal authority because NOAA is not procuring goods or services from the federal agency. Regional Fishery Management Councils are not eligible under this program.

C. Funding Availability and Mechanisms

1. Funding Available

Approximately $500,000 in funding is available in FY 2002 for awards under this program. It is expected that most awards will range from a minimum of $15,000 to a maximum of approximately $75,000.

2. Funding Mechanism

Proposals selected for funding from non-Federal applicants will be funded through a project grant or cooperative agreement under the terms of this document. Proposals selected for funding from Federal agencies will be funded through an interagency agreement. Generally, NMFS will make awards only to those projects where requested funding will be used to complete proposed activities within a period of 18 months from the approved start date of the project.

D. Matching Funds

The requirements for matching funds under Section VIII of the Guidelines are applicable to funding available under this program. Specific information to be submitted in regard to matching funds can be found in the Proposal Content and Format section here.

E. Proposal Content and Format

1. Proposal Content

Applications should support the National Coral Reef Action Strategy and the following goals of the U.S. Coral Reef Task Force *National Action Plan to Conserve Coral Reefs*: A.II. Assess and Monitor Reef Health; A.III. Conduct Strategic Research; A.IV. Understand Social and Economic Factors; B.I. Improve Use of Marine Protected Areas (MPAs); B.II. Reduce Impacts of Fishing; B.IV. Reduce Pollution; B.V. Restore Damaged Reefs; and B.VI. Improve Education. In addition, proposed activities should be coordinated, where appropriate, with ongoing and proposed NOAA mapping, monitoring, and coral reef or fishery management initiatives, and DOI Fish and Wildlife Service and National Park Service coral reef activities.

Applicants must consult with all relevant state, territorial, and local governmental and non-governmental entities involved in coral reef activities in developing the application. Local government agencies that must be consulted include coastal zone management, water quality, and wildlife and/or marine resource agencies.

Applicants may submit applications covering a 12 to 18–month period, and must meet all applicable DOC grant requirements, and submit, with the final application package, all required Federal financial assistance forms. One original and two signed copies of the complete application must be submitted by the applicant to NOAA by the indicated due date.

2. Proposal Format

In developing the proposal, the applicant must catagorize proposed tasks into the following 8 categories, which are based on a subset of those found in the *National Action Plan*:

a. *Monitoring and Assessment of coral reefs or reef resources*; *e.g.*, community or non-governmental organization monitoring or assessment programs that complement State or Territorial coral reef monitoring programs funded out of the NCCOS Coral Reef Monitoring Award,

b. *Targeted research*, *e.g.*, studies that improve the understanding of coral reef ecosystems, their ecology and processes, and that are necessary to improve the management of these ecosystems,

c. *Socio-economic and Resource Valuation*, *e.g.*, community assessments, economic valuations, alternative income generation workshops, etc.,

d. *Marine Protected Areas and associated management activities*, especially assessment of the gaps in protection of existing marine protected area systems, and outreach and education efforts,

e. *Coral Reef Fisheries Management*, *e.g.*, resource assessments, collection of fishery information, outreach to fishers, co-management of coral reef fisheries by fishing communities, etc.,

f. *Reducing Pollution*, *e.g.*,marine debris prevention and removal, reducing impacts from land-based/ watershed pollution sources, etc.,

g. *Coral Reef Restoration*, *e.g.*, restoration of coral reef habitats resulting from physical and biological disturbances such as orphan vessel groundings, storm events, coral disease and coral predator outbreaks, and anthropogenic disturbances, particularly projects utilizing innovative coral restoration technologies and/or comprehensive evaluation of restoration sites, and

h. *Public Education and Outreach activities*, *e.g.*, brochures and other informational materials, public meetings and workshops, etc., particularly those which address the needs of local user groups.

The following projects will not be eligible for funding:

(1) Activities that constitute legally required mitigation for the adverse effects of an activity regulated or otherwise governed by state or Federal law;

(2) activities that constitute mitigation for natural resource damages under Federal or state law, and

(3) activities that are required by a separate consent decree, court order, statute or regulation.

Funding available under this program may be sought to enhance coral reef conservation activities beyond the scope legally required by these activities.

For each project proposed, the applicant should include the following:

1. An introduction, not to exceed one page, that describes:

a. The status and magnitude of the issues in the jurisdiction where the project will take place;

b. Recent actions undertaken to address the issues, with a focus on federally-funded tasks; and

c. How the project fits into the jurisdiction's strategy to addressing critical coral reef conservation needs the next two to three years.;

2. A description of each proposed task that includes:

a. Clear identification of the work to be completed and who will perform the work;

b. How the project coordinates with relevant state, territorial, or local governmental and non-governmental agencies and, if applicable, NOAA regional activities;

c. A Summary Budget that includes a detailed breakdown of costs by category and information regarding the amount of matching funds available to the applicant, pursuant to Section IX(6) of the Guidelines. Intended sources of matching funds must be identified in the application. Applicants whose proposals are selected for funding will be required to submit with the final application, letter(s) of commitment to fund from the organization(s) providing matching funds; and

d. Task timetable with interim benchmarks and clearly defined work products.

F. Proposal Evaluation and Selection Criteria

1. Evaluation Criteria

Proposals will be peer-reviewed on the following equally weighted evaluation criteria by individuals with coral reef conservation experience:

a. Documented need for the proposed coral reef activity in the jurisdiction;

b. Demonstrated coordination with applicable ongoing local, state, territorial, and Federal coral reef management activities;

c. Technical merit of the proposed activity;

d. Ability of the work to be completed for the funding and timing proposed (projects that can be completed within 18 months of the start date will receive a higher ranking); and,

e. Evidence presented of the capacity of the applicant to conduct the proposed work, including past performance on similar projects or programs involving coral reef ecosystems.

NOAA will also request and consider written comments on proposed projects from each agency with jurisdiction over coral reef ecosystems in the area where the project is to be conducted, pursuant to Section X(1) of the Guidelines.

NMFS will then review the applications, consistent with the equally weighted criteria listed in Section X(3) of the Guidelines and comments received from peer reviewers and jurisdictions. Based on this review, NMFS will make preliminary funding decisions. These preliminary funding decisions will be submitted to the NOAA review team, pursuant to Section X(4) of the Guidelines. The review team will ensure that the preliminary funding decisions are consistent with the geographic distribution requirements of 16 U.S.C. 6403(d).

2. Selection Criteria

Based on these cumulative reviews, NMFS will provide a notice of intent to fund and proposal comments to each selected applicant. These comments will include input from peer reviewers, the solicited jurisdictions, and the NMFS review, and are intended to be used in the applicant's development of the final proposal.

Upon receipt of the final application, complete with the requisite Federal forms, NMFS will review the complete package and make final funding recommendations based on the incorporation of and/or response to comments that were returned to the applicant. NMFS will submit these funding recommendations to the NOAA review panel for final review, pursuant to Section X(4) of the Guidelines. The review panel will ensure that funding decisions are consistent with the geographic distribution requirements of 16 U.S.C. 6403(d). As a result, awards may not necessarily be made to the highest scoring proposals.

If insufficient eligible projects are received, NOAA may shift residual funds from this program area to another program area.

G. Program Authority

Specific authority for this program is found in 16 U.S.C. 6403. Proposals will be reviewed and awarded by the National Marine Fisheries Service Office of Habitat Conservation under title, *Habitat Conservation*, CFDA 11.463.

VIII. Regional Fishery Management Council Coral Reef Fishery Management Plans

A. Program Description

This description provides guidance for applying for funding appropriated by Congress to NOAA in FY 2002 to support conservation and management of coral reef fisheries by Regional Fishery Management Councils with responsibilities for Fishery Management Plans that include shallow water coral reefs or fishery resources that depend on these reef ecosystems, as established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). This program will be administered by the NMFS Office of Habitat Conservation (OHC).

B. Eligibility Criteria

Applicants are limited to the Western Pacific Regional Fishery Management Council, South Atlantic Fishery Management Council, Gulf of Mexico Fishery Management Council, and Caribbean Fishery Management Council.

C. Funding Availability and Mechanisms

1. Funding Available

NMFS OHC will provide approximately $1,500,000 in FY 2002 funding for cooperative agreements to support coral reef conservation activities under this program. In order to ensure the regional balance called for by the Act, a maximum of $750,000 will be available for activities in the Western Pacific, and a maximum of $750,000 will be available for activities in the South Atlantic, Gulf of Mexico, and Caribbean.

2. Funding Mechanism

Cooperative agreements will be awarded to each eligible Regional Fishery Management Council. Proposals should cover a project period of 12 to 18 months with an anticipated start date of October 1, 2002.

D. Matching Funds

The Administrator has waived the matching requirement of Section VIII of the Guidelines for the Fishery Management Councils. This waiver is based on the fact that the Councils are funded solely by awards from the U.S. Federal Government, and, therefore, do not have the ability to generate matching funds.

E. Proposal Content and Format

1. Proposal Content

Applications should support the *National Action Strategy* and the U.S. Coral Reef Task Force *National Action Plan to Conserve Coral Reefs*. In addition, proposed activities should be coordinated, where appropriate, with ongoing and proposed NOAA mapping, monitoring, and fishery management initiatives, and State and Territorial coral reef conservation initiatives in their own waters contiguous to the Federal Exclusive Economic Zone.

Fishery Management Councils must consult with state and territorial agencies and all other relevant local governmental and non-governmental entities involved in coral reef activities in developing applications.

Applicants may submit applications covering a 12 to 18–month period, and must meet all applicable DOC grant requirements, and submit, with the final application package, all required Federal financial assistance forms. One original and two signed copies of the complete application must be submitted by the applicant to NOAA by the indicated due date.

Eligible activities are those that support the objectives of the Strategy's goal of Reducing the Adverse Impacts of Fishing and other Extractive Uses on Coral Reefs and incorporating these objectives into existing or new Federal fishery management plans. Proposed activities should be in addition to those currently supported by NMFS and should not replace support for existing Council staff. The following represent priority activities for funding:

a. Identifying, mapping and characterizing important essential fish habitat, habitat areas of particular concern, and spawning populations in U.S. coral reef ecosystems, especially those associated with areas that are currently, permanently, or seasonally closed to fishing or that may merit inclusion in an expanded network of no-take ecological reserves. Eligible activities would include multi-beam or sidescan sonar mapping and characterization of such areas on deeper coral reefs, banks and beds;

b. Monitoring reef fish stocks in existing no-take marine reserves and reference sites to evaluate the effectiveness of reserves;

c. Developing proposals to reduce over-fishing of coral reef resources, including background information on currently unassessed coral reef fishery stocks;

d. Identifying adverse effects of fishing and fishing gear on essential fish

habitat and implementing actions to reduce these effects;

e. Eliminating destructive and habitat-damaging fishing practices;

f. Assessing the adequacy of current fishing regulations and the need for additional gear and anchoring restrictions to reduce habitat damage;

g. Providing enhanced education and outreach to recreational and commercial fishers to reduce the adverse impacts of fishing on coral reef ecosystems;

h. Incorporating ecosystem-scale considerations into coral reef fishery management plans;

i. Conducting targeted research to understand ecosystem effects of fishing, including: the development of models and studies to improve our understanding of larval pathways, trophic interactions and their ecosystem impacts associated with fishing, and habitat impacts associated with certain types of fishing gear and practices; and

j. Reducing the overexploitation of reef organisms for the aquarium trade.

2. Proposal Format

For each discrete task or activity, the applicant must include:

a. An introduction, not exceeding one page, that describes:

(1) The status and magnitude of the issues in the Council's jurisdiction;

(2) Recent actions undertaken to address the issues, with a focus on federally funded tasks; and,

(3) The Council's strategy to address critical needs over the medium term (the next 2 to 3 years).

b. A description of each proposed task that should include:

(1) Clear identification of the work to be completed, who will perform the work, and how the project fits into the Council's strategy for addressing the larger issue;

(2) How the project coordinates with relevant local governmental and non-governmental agencies and, if applicable, NOAA regional activities;

(3) Summary budget;

(4) Task timetable with interim benchmarks and clearly defined work products; and,

(5) Project priority as compared to all other proposed projects.

F. Proposal Evaluation and Selection Criteria

1. Evaluation Criteria

Proposals will be peer-reviewed on the following equally weighted evaluation criteria by individuals with coral reef conservation experience:

a. Documented need for the proposed coral reef activity in the jurisdiction of the Council;

b. Demonstrated coordination with applicable ongoing local, state, territorial, and Federal coral reef management activities;

c. Technical merit of the proposed activity;

d. Ability of the work to be completed for the funding and timing proposed; and,

e. Evidence presented of the capacity of the applicant to conduct the proposed work, including past performance on similar projects or programs involving coral reef ecosystems.

NOAA will also request and consider written comments on proposed projects from each agency with jurisdiction over coral reef ecosystems in the area where the project is to be conducted, pursuant to Section X(1) of the Guidelines.

A NMFS team of representatives from the OHC, the Southeast Region, the Southeast Fishery Science Center, the Pacific Islands Area Office and the Southwest Fishery Science Center's Honolulu Laboratory will review the applications, consistent with the equally weighted criteria listed in Section X(3) of the Guidelines and consider comments received from peer reviewers and appropriate management authorities.

Based on this review, the team will make preliminary funding decisions. These preliminary funding decisions will be submitted to the NOAA review team, pursuant to Section X(4) of the Guidelines.

2. Selection Criteria

Based on these cumulative reviews, NMFS will provide a notice of intent to fund and proposal comments to each selected applicant. These comments will include input from peer reviewers, jurisdictions, the NMFS review team, and are intended to be used in the applicant's development of the final proposal.

Upon receipt of the final application, complete with the requisite Federal financial assistance forms, the NMFS team will review the complete package and make final funding recommendations based on the incorporation of and/or response to comments that were returned to the applicant. The team will submit these funding recommendations to the NOAA review panel for final review, pursuant to Section X(4) of the Guidelines.

If proposals from one or more Councils are ineligible to receive funding, NOAA may award those residual funds for eligible activities proposed by another Council or move the residual funds to a different program area. NOAA will work with each Council to ensure the greatest degree of success in meeting that the goals of the Strategy.

G. Program Authority

Specific authority for this announcement is found in 16 U.S.C. 6403. These cooperative agreements will be reviewed and awarded by the NMFS OHC under title, *Regional Fishery Management Councils*, CFDA Number: 11.441.

IX. International Coral Reef Conservation

A. Program Description

This description provides guidance for applying for funding appropriated by Congress to NOAA in FY 2002 to support the international conservation and management of coral reef ecosystems. These funds will be administered by NOS International Program Office (IPO).

The Act authorizes cooperative conservation and management of coral reefs and coral reef ecosystems with local, regional, or international programs and partners. The *National Action Plan to Conserve Coral Reefs* (National Action Plan) calls on the U.S. to, ''exercise global leadership in the international arena in shaping and developing environmentally sound and comprehensive coral reef policy, strengthen international conventions and foster strategic partnerships with other countries, international organizations and institutions, the public and private sectors, and non-governmental organizations to address international threats to coral reef ecosystems.''

This program has four objectives:

1. *Promote Monitoring of Coral Ecosystems*: The *National Action Plan* gives priority to collaboration with the Global Coral Reef Monitoring Network (GCRMN), recognizing the importance of its biennial *Status of Coral Reefs of the World* reports, and extensive partnerships with regional and national monitoring efforts. Therefore, activities will focus on expanding biophysical monitoring networks that contribute to understanding the status of coral reefs, promoting public awareness, and contributing to local management objectives. In FY 2002, emphasis will be placed on community participation in monitoring programs, communication of results to policy makers, and commitment to make data available to the GCRMN Data Centre at the International Centre for Living Aquatic Resources.

2. *Enhance Management Effectiveness of Marine Protected Areas (MPAs)*: The *National Action Plan* calls for

strengthening the protection of resources within existing MPAs. NOAA has launched strategic partnerships with the World Conservation Union's (IUCN) World Commission on Protected Areas (WCPA) and World Wildlife Fund (WWF)International to improve the management of MPAs by providing managers, planners, and other decision-makers with methods for assessing the effectiveness of MPA sites and national systems of MPAs. Therefore, funded activities will focus on assessing the effectiveness of management at those pilot coral MPAs that apply and test the approach and indicators developed therein.

3. *Encourage Regional Approaches to Further Marine Reserves in the Caribbean and Southeast Asia*: The *National Action Plan* highlights the role that highly protected areas (*i.e.*, no-take ecological reserves) play in creating a network of coral marine protected areas for biodiversity conservation and sustainable fisheries management. Through this program, IPO will fund activities that support the development of networks of marine reserves in the Caribbean and Southeast Asia. IPO will fund regional-level activities that promote the design and implementation of no-take marine reserves such as awareness campaigns on the value of marine reserves for government officials and policy makers throughout the region, or training workshops on sustainable financing mechanisms for marine reserve management. The Caribbean and Southeast Asia regions were selected in part because of the substantial interest and existing experience with marine reserves.

4. *Promote the Use of Socio-Economic Assessments in Marine Protected Areas*: The National Action Plan recognizes that the human dimension is often overlooked in developing coral reef management strategies and calls for measures to enhance understanding of stakeholder benefits and resolve important user conflicts. Recognizing the importance of the human dimension, the GCRMN, in partnership with NOAA, WCPA, and the Australian Institute of Marine Science (AIMS), recently published The *Socioeconomic Manual for Coral Reef Management*, a guide to conducting socioeconomic assessments of reef user groups.

As follow-up, the GCRMN and NOAA are working to develop socioeconomic monitoring approaches specific to Southeast Asia and the Caribbean and are planning training workshops for reef managers to learn how to conduct these assessments. The final, critical phase will be for the workshop participants to return to their sites and establish socioeconomic monitoring programs.

Through this program, IPO will fund the establishment of socioeconomic monitoring programs at MPA sites in Southeast Asia and the Caribbean. These monitoring programs are intended to help managers better understand the communities whose activities affect the MPA and who are affected by MPA management decisions. The socioeconomic information from the monitoring programs is, therefore, intended to be used in MPA management.

B. Eligibility Criteria

Eligible applicants include all international governmental and non-governmental entities, including the Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands, as noted below. Specific guidance for each type of project is noted below:

1. Applications for projects to ''Promote Monitoring of Coral Ecosystems'' must include:

a. A strategy for submission of data to the GCRMN, as well as the means to document transmission of data to the GCRMN data center at the International Center for Living Aquatic Resources Management in the evaluation section of the report.

b. Evidence of commitment and capability to continue periodic monitoring after the grant period ends. Monitoring may include training at national or regional levels or in situ data collection.

2. Applications for projects to ''Enhance Management Effectiveness of Marine Protected Areas'' must include:

a. Incorporation of the approach being developed by the WCPA-Marine/WWF International MPA Management Effectiveness Initiative, in particular, use of the Initiative's effectiveness indicators (http://ipo.nos.noaa.gov/mgmteffect/indicatorlists.html). Projects should use these indicators to test their applicability and to determine if the indicators provide results on the effectiveness of a site's management goals and objectives;

b. The method to implement these indicators should be based on the IUCN publication, *Evaluating Effectiveness: A Framework for Assessing the Management of Protected Areas* (http://wcpa.iucn.org/pubs/pdfs/evaluating—effect.pdf). Project leaders should be in consultation with the WCPA-Marine/WWF International MPA Management Effectiveness Initiative, and follow the ongoing development of the draft guidelines for MPAs; and

c. In order to be selected, project sites must:

(1) Have a management program in place, including a management plan, on-site staff, and infrastructure to carry out effectiveness assessments;

(2) Be able to implement the WCPA approach and test biophysical, socioeconomic and governance indicators;

(3) Demonstrate the intent to incorporate the assessment of indicators into management planning and review process; and

(4) Include a letter of support from the MPA managing authority or site supervisor, which also demonstrates the involvement of the authority/supervisor in the project if the agency is not proposing the work.

3. Applications for projects to ''Encourage Regional Approaches to Further Marine Reserves in the Caribbean and Southeast Asia'' must:

a. Benefit more than one particular site;

b. Be supported by regional-level conservation organizations and/or at least three marine reserve sites; and,

c. Address a recognized regional need as demonstrated by documentation in regional reports, conference statements or elsewhere.

4. Applications for projects to ''Promote the Use of Socio-Economic Assessments in Marine Protected Areas'' must:

a. Link with an existing or planned marine resource management program (*e.g.*, MPA, fisheries management program, coastal management program) with clearly defined goals (note: these would preferably include socioeconomic goals, such as improve livelihood, increase environmental awareness, etc.);

b. Include a letter of support from the marine resource management authority;

c. Incorporate one or more of the approaches outlined in the Socioeconomic Manual for Coral Reef Management (*http://www.reefbase.org/*);

d. Demonstrate commitment to participating in the planned socioeconomic training workshop;

e. Identify the people who will conduct the socioeconomic monitoring either from staff or others (*e.g.*, local university);

f. Demonstrate involvement of marine management staff in the proposed monitoring even if personnel not engaged in site-management are overseeing the monitoring;

g. Identify how the people conducting the assessments will be involved in marine management beyond the periodic monitoring (*i.e.*, as opposed to an outside entity conducting the assessment and then leaving); and,

h. Identify how the socioeconomic data resulting from the monitoring program will be incorporated into decision-making for the marine resource management program.

C. Funding Availability and Mechanisms

1. Funding Available

Approximately $300,000 will be available in FY 2002 to support grants and cooperative agreements under this program. Approximately $75,000 will be allocated to each of the four program areas described below. Most awards will range from $30,000-$40,000. Support in out-years after FY 2002 is contingent upon the availability of funds and any new guidance issued in the **Federal Register**.

2. Funding Mechanism

Grants and cooperative agreements will be reviewed and awarded by the International Program Office. Full proposals should cover a project period of 12 to 18 months with an anticipated start date of October 1, 2002.

D. Matching Funds

The requirements for matching funds under section VIII of the Guidelines are applicable to funding available under this program. Specific information to be submitted in regard to matching funds can be found in the Proposal Content and Format Section below.

E. Proposal Content and Format

1. Proposal Content

Each of the four International Program themes are priorities of the National Action Plan. Applicants may submit applications covering a 12 to 18–month period, must meet all applicable DOC grant requirements, and submit with the final application package, all required Federal financial assistance forms. A complete Federal financial assistance awards package is required. One original and two signed copies of the proposal must be submitted to NOAA.

2. Proposal Format

Each application must include the following elements:

a. A cover sheet with the following:

(1) Name of the individual or entity responsible for conducting the project;

(2) Nature of Applicant: nonprofit, university, government, individual, etc.;

(3) Project name;

(4) One paragraph project summary;

(5) Location of Project and site;

(6) Indication of the relevant International Project Category; and,

(7) Grant Request and matching funds.

b. A description of the qualifications of the individual(s) who will conduct the project

c. Project Description which must address the specific project category eligibility criteria described in B above and also include:

(1) Project need;

(2) Objectives;

(3) Implementation strategy;

(4) Identification of how project fits into applicant (and site) strategy for management;

(5) Project products and outcomes;

(6) Partner justification and roles;

(7) A methodology to evaluate the success of the project;

(8) A Summary Budget that includes a detailed breakdown of costs by category and a description of the amount of matching funds available to the applicant, as described in Section IX(6) of the Guidelines. Intended sources of matching funds must be identified in the application. Applicants whose proposals are selected for funding will be required to submit with the final application, letter(s) of commitment to fund from the organization(s) providing matching funds; and,

(9) Task timetable with interim benchmarks linked to clearly defined work projects.

d. Evidence of support for the project from the local management authority where the work is conducted at specific sites to support local management objectives. In those cases where training is envisaged, (*e.g.*, training in monitoring), indication that participants will apply new techniques at their local sites is requested. Evidence of coordination with relevant national and regional project partners, including a list of agencies consulted in developing the proposal.

F. Proposal Evaluation and Selection Criteria

1. Evaluation Criteria

IPO will provide for a merit-based peer review and standardized documentation of that review for proposals that meet the eligibility requirements. Each proposal will be reviewed by a minimum of three individuals with knowledge of the subject of the proposal. Each reviewer will submit a separate and individual review and reviewers will not provide a consensus opinion. The identities of the peer reviewers will be kept anonymous to the degree permitted by law. Peer reviewers will apply the following equally weighted evaluation criteria:

a. Documented need for the proposed coral reef activity in the jurisdiction;

b. Demonstrated coordination with applicable ongoing national and regional reef management activities;

c. Technical merit of the proposed activity;

d. Ability of the work to be completed for the funding and timing proposed; and,

e. Evidence presented of the capacity of the applicant to conduct the proposed work, including past performance on similar projects or programs involving coral reef ecosystems.

NOAA may also request and consider written comments on proposed projects from agencies with jurisdiction over coral reef ecosystems in the area where the project is to be conducted, as described in Section X(1) of the Guidelines. Under the international grant program, NOAA will request and consider written comments on the proposal from relevant U.S. government agencies such as the Agency for International Development and Department of the Interior; foreign governments and their coral management agencies; and other international entities as necessary. Each entity will be provided 21 days to review and comment on subject proposals. Comments submitted will be part of the public record.

IPO will then review the applications, consistent with the equally weighted criteria listed in Section X(3) of the Guidelines and comments received from peer, agency, and jurisdiction reviewers. Based on this review, the team will make preliminary funding decisions.

2. Selection Criteria

Based on these cumulative reviews, IPO will provide a notice of intent to fund and proposal comments to each selected applicant. These comments will include input from peer reviewers, agencies, jurisdictions, and IPO, and are intended to be used in the applicant's development of the final proposal.

Upon receipt of the final application, complete with the requisite Federal forms, IPO will review the complete package and make final funding recommendations based on the incorporation of, and response to, comments that were returned to the applicant. IPO will submit these funding recommendations to the NOAA review panel for final review, pursuant to Section X(4) of the Guidelines to ensure that the Act's requirements for geographic funding distribution and consistency with the overall program goals outlined in the Strategy.

G. Program Authority

Specific authority for this program is found in 16 U.S.C. 6403. Grants and

cooperative agreements will be reviewed and awarded by the NOS International Program Office under title, *Habitat Conservation*, CFDA: 11.463.

X. General Information for All Programs

The budget may include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal government. Indirect costs are essentially overhead costs for basic operational functions (*e.g.*, lights, rent, water, insurance) that are incurred for common or joint objectives and, therefore, cannot be identified specifically within a particular project. For this solicitation, the Federal share of the indirect costs must not exceed the lesser of either the indirect costs the applicant would be entitled to if the negotiated Federal indirect cost rate were used or 25 percent of the Federal direct costs proposed. For those situations in which the use of the applicant's indirect cost rate would result in indirect costs greater than 25 percent of the Federal direct costs proposed, the difference may be counted as part of the non-Federal share. A copy of the current, approved negotiated indirect cost agreement with the Federal Government should be included with the application. If the applicant does not have a current negotiated rate and plans to seek reimbursement for indirect costs, documentation necessary to establish a rate must be submitted within 90 days of receiving an award.

Applicants receiving funding will be required to submit semiannual performance reports and copies of all products that are developed under the award. The specific information, products, or data to be submitted to NOAA will be determined by the program office and applicant in pre-award negotiations.

If an application is selected for funding, NOAA has no obligation to provide any additional prospective funding in connection with that award in subsequent years. Any subsequent proposal to continue work on an existing project must be submitted to the competitive process for consideration and will not receive preferential treatment. Renewal of an award to increase funding or to extend the period of performance is at the total discretion of NOAA.

The recipients must comply with Executive Order 12906 regarding any and all geospatial data collected or produced under grants or cooperative agreements. This includes documenting all geospatial data in accordance with the Federal Geographic Data Committee Content Standard for digital geospatial data.

Classification

This is a new Program and will be added to the Catalog of Federal Domestic Assistance under the Coastal Zone Management Act (11.419), Financial Assistance for National Centers for Coastal Ocean Science (11.426), and Habitat Conservation (11.463). The Program uses only the existing NOAA Federal financial assistance awards package requirements per 15 CFR parts 14 and 24.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** Notice of October 1, 2001, will be applicable to solicitations under this Program. However, please note that the Department of Commerce will not implement the requirements of Executive Order 13202, pursuant to guidance issued by the Office of Management and Budget (OMB) in light of a court opinion which found that the Executive Order was not legally authorized. See *Building and Construction Trades Department* v. *Allbaugh*, 172 F. Supp. 2d 138 (D.D.C. 2001). This decision is currently on appeal. When the case is finally resolved, the Department will provide further information on implementation of Executive Order 13202.

The program will determine National Environmental Policy Act (NEPA) compliance on a project by project basis.

This action has been determined to be not significant for purposes of Executive Order 12866.

The use of the Federal financial assistance awards package referred to in this notice involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B and SF-LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

This notice also contains a collection-of-information requirement subject the Paperwork Reduction Act and which has been approved by OMB under control number 0648–0448. The public reporting burden is estimated to average one hour per response for comments on a proposed project from each agency with jurisdiction over coral reef ecosystems in the area where the project is to be conducted. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of these data collections, including suggestions for reducing the burden, to the NOAA Office of Response and Restoration, N/ORR, National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910, and to Office of Management and Budget (OMB) at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 Attention: NOAA Desk Officer.

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

Dated: April 15, 2002.

Alan Neuschatz,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 02–9683 Filed 4–18–02; 8:45 am]

BILLING CODES 3510–JE–S and 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040902G]

Taking and Importing of Marine Mammals

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

ACTION: Notice of affirmative finding renewal.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) has renewed the affirmative finding for the Republic of Ecuador under the Marine Mammal Protection Act (MMPA). The renewal of Ecuador's affirmative finding allows for the continued importation into the United States of yellowfin tuna and yellowfin tuna products harvested in the eastern tropical Pacific Ocean (ETP) after March 3,1999, by Ecuadorian-flag purse seine vessels with a carrying capacity greater than 400 short tons (362.8 metric tons) or purse seine vessels with a carrying capacity greater than 400 short tons operating under Ecuadorian jurisdiction. The affirmative finding renewal was based on review of documentary evidence submitted by the Republic of Ecuador and obtained from theInter-American Tropical Tuna Commission (IATTC) and the Department of State. This finding is

effective from April 1, 2002, through March 31, 2003.

DATES: Effective April 1, 2002, through March 31, 2003.

FOR FURTHER INFORMATION CONTACT: Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, California, 90802–4213; Phone 562–980–4000; Fax 562–980–4018.

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.*, as amended by the International Dolphin Conservation Program Act (IDCPA) (Pub. L. 105–42), allows the entry into the United States of yellowfin tuna harvested by purse seine vessels in the ETP under certain conditions. If requested by the harvesting nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government of the harvesting nation, the IATTC, or the Department of State. A finding will remain valid for 1 year (April 1 through March 31) or for such other period as the Assistant Administrator may determine. An affirmative finding applies to tuna and tuna products that were harvested in the ETP by purse seine vessels of the nation, and applies to any tuna harvested in the ETP purse seine fishery after March 3, 1999, the effective date of the IDCPA.

The affirmative finding process requires that the harvesting nation meet several conditions related to compliance with the International Dolphin Conservation Program (IDCP). A nation may opt to provide information regarding compliance with the IDCP directly to NMFS on an annual basis or to authorize the IATTC to release the information to NMFS in years when NMFS will review and consider whether to issue an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f)(9) are no longer being met or that a nation is consistently failing to take enforcement actions on violations that diminish the effectiveness of the IDCP. Every 5 years, the government of the harvesting nation must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator.

As a part of the annual review process set forth in 50 CFR 216.24 (f)(9), the Assistant Administrator considered documentary evidence submitted by the Republic of Ecuador and obtained from the IATTC and the Department of State and determined that the requirements under the MMPA to receive an affirmative finding have been met for the purposes of renewing an affirmative finding.

Effective April 1, 2002, after consultation with the Department of State, NMFS renewed the Republic of Ecuador's affirmative finding allowing the continued importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by Ecuadorian-flag purse seine vessels with a carrying capacity greater than 400 short tons (362.8 metric tons) or purse seine vessels with a carrying capacity greater than 400 short tons operating under Ecuadorian jurisdiction after March 3, 1999. This renewal will remain in effect for 1 year (April 1, 2002 through March 31, 2003).

In subsequent years 2003 through 2004, the Assistant Administrator will determine on an annual basis whether the Republic of Ecuador is meeting the requirements under section 101(a)(2)(B) and (C) of the MMPA. If necessary, documentary evidence may also be requested from the Republic of Ecuador to determine whether the affirmative finding criteria are being met. If the affirmative finding for the Republic of Ecuador is renewed after NMFS's annual review in the years 2003 and 2004, the Republic of Ecuador must submit a new application in early 2005 for an affirmative finding to be effective for the period April 1, 2005, through March 31, 2006, and subsequent years.

Dated: April 15, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–9686 Filed 4–18–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041202C]

Endangered Species; Permits

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

ACTION: Receipt of an application for a research permit (1377).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for a scientific research permit from Ms. Tracey Mueller, of Mote Marine Laboratory.

DATES: Written comments or requests for a public hearing on this new application must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on May 20, 2002.

ADDRESSES: Written comments on the new application request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application. Comments will not be accepted if submitted via e-mail or the Internet. The 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:

Sea turtles

Threatened and endangered Green turtle (*Chelonia mydas*)
Endangered Hawksbill turtle (*Eretmochelys imbricata*)
Endangered Kemp's ridley turtle (*Lepidochelys kempii*)
Threatened Loggerhead turtle *(Caretta caretta)*

Application 1377

The applicant wishes to conduct a 5–year population assessment of the juvenile sea turtles inhabiting Charlotte Harbor on the west coast of Florida. The applicant plans to capture green, Kemp's ridley, loggerhead and hawksbill sea turtles employing tangle net, encircling net, rodeo and dip net methodologies. Up to 150 green and Kemp's ridley, 100 loggerhead and 5 hawksbill sea turtles will be captured, weighed, measured, flipper and PIT tagged, blood and tissue sampled and released each year. Up to 10 green, Kemp's ridley and loggerhead and 5 hawksbill sea turtles will also be collected incidentally to the Center for Shark Research gill netting for sharks in the areas of Pine Island Sound and the Gulf waters near Crystal River, FL. These will be captured, measured, flipper tagged and released. In the second through fifth year, up to 5 green and/or Kemp's ridley sea turtles will be sampled as above, satellite tagged and released.

Dated: April 12, 2002.

Ann Terbush,

Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–9685 Filed 4–18–02; 8:45am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032502D]

Notice of Availability of Draft Stock Assessment Reports

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS revised the Alaska, Atlantic and Gulf of Mexico, and Pacific marine mammal stock assessment reports (SARs) in accordance with the Marine Mammal Protection Act (MMPA). Draft 2002 reports are available for public review and comment.

DATES: Comments must be received by July 18, 2002.

ADDRESSES: Send comments or requests for copies of reports to: Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments. Comments may also be sent via facsimile (fax) to 301–713–0376. NMFS will not accept comments submitted via e-mail or Internet.

Copies of the Alaska Regional SARs may be requested from Robyn Angliss, Alaska Fisheries Science Center, NMFS, 7600 Sand Point Way, NE BIN 15700, Seattle, WA 98115–0070.

Copies of the Atlantic and Gulf of Mexico Regional SARs may be requested from Janeen Quintal, Northeast Fisheries Science Center, 166 Water St., Woods Hole, MA 02543 or Steven Swartz, Southeast Fisheries Science Center, 75 Virginia Beach Dr., Miami, FL 33149.

Copies of the Pacific Regional SARs may be requested from Cathy Campbell, Southwest Regional Office, NMFS, 501 West Ocean Boulevard, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Tom Eagle, Office of Protected Resources, 301–713–2322, ext. 105, e-mail *Tom.Eagle@noaa.gov*; Robyn Angliss 206–526–4032, e-mail *Robyn.Angliss@noaa.gov*, regarding Alaska regional stock assessments; Janeen Quintal, 508–495–2252, e-mail *Janeen.Quintal@noaa.gov*, regarding Northwest Atlantic regional stock assessments; Steven Swartz, 305–361–4487, e-mail *Steven.Swartz@noaa.gov*, regarding Mid-Atlantic and Gulf of Mexico regional stock assessments; or Cathy.Campbell, 562–280–4060, e-mail *Cathy.E.Campbell@noaa.gov*, regarding Pacific regional stock assessments.

SUPPLEMENTARY INFORMATION:

Electronic Access

All stock assessment reports and the guidelines for preparing them are available via the Internet at *http://www.nmfs.noaa.gov/prot—res/PR2 / Stock—Assessment—Program/sars.html.*

Background

Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals that occurs in waters under the jurisdiction of the United States. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available and at least once every 3 years for non-strategic stocks. NMFS and the FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific Scientific Review Groups, reviewed the status of marine mammal stocks as required and revised reports for which new information was available. Summary tables for all stocks of marine mammals in the three regions (Tables 1–3) indicate revisions to the SARs. NMFS solicits public comments on the draft Alaska, Atlantic and Gulf of Mexico, and Pacific reports.

Distribution

NMFS is considering distributing SARs in electronic form using Compact Disks (CDs) rather than paper copies. Distribution on CDs would facilitate ease of use by any interested constituents and substantially reduce costs of production and distribution. NMFS seeks comments on distribution of future reports as CDs, rather than paper form in addition to comments on regional SARs.

Alaska Stocks

The Alaska SARs present revised stock assessments for 15 marine mammal stocks under NMFS' jurisdiction. The new information on abundance and mortality did not change the status of any of the Alaska stocks from the 2001 SARs. The major changes in the 2002 Alaska SARs are: (1) New estimates of subsistence harvest for ringed seals, ribbon seals, spotted seals, and bearded seals, which in some cases, are substantially higher than the 2001 estimates. (2) The Eastern North Pacific transient killer whale stock was moved from the Pacific SARs to the Alaska SARs. (3) The Eastern North Pacific gray whale SAR includes new information about the high number of gray whales found stranded in 1999 and 2000 and identifies hypotheses for the increase in

mortality. The SAR also includes preliminary data from 2001 to demonstrate that the stranding level has returned to ''normal'' after the mortality event.

Table 1 contains a summary, by species, of the new information for all strategic stocks, and non-strategic stocks reviewed in late 2001, leading to the revision of the following SARs for 2002:

Alaska stock of bearded seals;

Beaufort Sea stock of beluga whales;

Eastern Chukchi Sea stock of beluga whales;

Eastern Bering Sea stock of beluga whales;

Bristol Bay stock of beluga whales;

Western Arctic stock of bowhead whales;

Eastern North Pacific stock of gray whales;

Central North Pacific stock of humpback whales;

Eastern North Pacific transient stock of killer whales;

Eastern North Pacific stock of northern fur seals;

Alaska stock of ribbon seals;

Alaska stock of ringed seal;

Alaska stock of spotted seal;

Eastern and Western U. S. stock of Steller sea lion;

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Table 1: Stock summary table (last revised ~~10/5/00, 2/16/01~~3/20/01). Stock assessment reports for those stocks in boldface were updated in the ~~2001~~2002 draft SARs.

Species	Stock	N (est)	CV	C.F.	CV C.F.	Comb. CV	N(min)	0.5 Rmax	F(r)	PBR	Fishery mort.	Subsist mort.	Status
Baird's beaked whale	Alaska	n/a					n/a	0.02	0.50	n/a	0	see txt	NS
Bearded seal	**Alaska**	**n/a**					**n/a**	**0.06**	**0.50**	**n/a**	**1**	**~~n/a~~ 6,788**	**NS**
Beluga whale	**Beaufort Sea**	**39,258**	**0.229**	**2.00**	**n/a**	**0.229**	**32,453**	**0.02**	**1.00**	**649**	**0**	**~~184~~177**	**NS**
Beluga whale	**E. Chukchi Sea**	**3,710**	**n/a**	**3.09**	**n/a**	**n/a**	**3,710**	**0.02**	**1.00**	**74**	**0**	**~~68~~ 60**	**NS**
Beluga whale	**E. Bering Sea**	**~~7,986~~ 18,142**	**~~0.26~~ 0.24**	**3.09**	**n/a**	**~~0.26~~ 0.24**	**~~6,439~~ 14,898**	**0.02**	**1.00**	**~~129~~ 298**	**1***	**~~121~~ 164**	**NS**
Beluga whale	**Bristol Bay**	**~~1,555~~ 1,888**	**n/a**	**3.09**	**n/a**	**0.20**	**~~1,316~~ 1,619**	**0.02**	**1.00**	**~~26~~ 32**	**1***	**~~19~~ 15**	**NS**
Beluga whale	**Cook Inlet**	**435**	**0.23**			**0.23**	**360**	**0.02**	**0.30**	**2.2**	**0**	**0**	**S**
Bowhead whale	**W. Arctic**	**8,200**	**0.069**			**0.069**	**7,738**	**0.02**	**0.50**	**77**	**0.2**	**~~54~~ 52**	**S**
Cuvier's beaked whale	Alaska	n/a					n/a	0.02	0.50	n/a	0	0	NS
Dall's porpoise	Alaska	83,400	0.097			0.097	76,874	0.02	1.00	1,537	42	0	NS
Fin whale	**NE Pacific**	**n/a**					**n/a**	**0.02**	**0.10**	**n/a**	**0**	**0**	**S**
Gray whale	**E. N. Pacific**	**26,635**	**0.1006**			**0.1006**	**24,477**	**0.0235**	**1.00**	**575**	**~~64~~ 8.9**	**~~76~~ 97**	**NS**
Harbor porpoise	SE Alaska	10,508	0.207	2.96	0.180	0.274	8,376	0.02	0.50	83	3*	0	NS
Harbor porpoise	Gulf of Alaska	21,451	0.252	2.96	0.180	0.304	16,630	0.02	0.50	166	25	0	NS
Harbor porpoise	Bering Sea	10,946	0.243	3.10	0.171	0.300	8,549	0.02	0.50	86	2	0	NS
Harbor seal	SE Alaska	37,450	0.026	1.74	0.068	0.073	35,226	0.06	1.00	2,114	36	1,749	NS
Harbor seal	Gulf of Alaska	29,175	0.023	1.50	0.047	0.052	28,917	0.06	0.50	868	36	791	NS
Harbor seal	Bering Sea	13,312	0.062	1.50	0.047	see txt	12,648	0.06	0.50	379	31	161	NS

Table 1 (cont.).

Species	Stock	N (est)	CV	C.F.	CV C.F.	Comb. CV	N(min)	0.5 Rmax	F(r)	PBR	Fishery mort.	Subsis t mort.	Status
Humpback whale	**W. N. Pacific**	**394**	**0.084**			**0.084**	**367**	**0.02**	**0.10**	**0.7**	**0.6**	**0**	**S**
Humpback whale	**Cent.N. Pacific**	**4,005**	**0.095**			**0.095**	**3,698**	**0.02**	**0.10**	**7.4**	~~3.5~~ **3.9**	**0**	**S**
Killer whale	**E. N. Pacific N. resident**	**723**	**n/a**			**see txt**	**723**	**0.02**	**0.50**	**7.2**	**1.4**	**0**	**NS**
Killer whale	**E. N. Pacific transient**	**346**	**1.0**				**346**	**0.04**	**0.04**	**2.8**	**0.6**	**0**	**NS**
Minke whale	**Alaska**	**n/a**					**n/a**	**0.02**	**0.50**	**n/a**	**0**	**0**	**NS**
North Pacific right whale	**E. N. Pacific**	**n/a**					**n/a**	**0.02**	**0.10**	**n/a**	**0**	**0**	**S**
Northern fur seal	**E. North Pacific**	~~983,918~~ **941,756**		**4.475**	**n/a**	**0.2**	~~832,798~~ **797,112**	**0.043**	**0.50**	~~17,905~~ **17,138**	**15**	**1,495**	**S**
Pacific white-sided dolphin	Cent.N. Pacific	26,880					26,880	0.02	0.50	269	4	0	NS
Ribbon seal	**Alaska**	**n/a**					**n/a**	**0.06**	**0.50**	**n/a**	**1**	~~n/a~~ **193**	**NS**
Ringed seal	**Alaska**	**n/a**					**n/a**	**0.06**	**0.50**	**n/a**	**0**	~~n/a~~ **9,567**	**NS**
Sperm whale	N. Pacific	n/a					n/a	0.02	0.10	n/a	0	0	S
Spotted seal	**Alaska**	**n/a**					**n/a**	**0.06**	**0.50**	**n/a**	**3**	~~see txt~~ **5,265**	**NS**
Stejneger's beaked whale	Alaska	n/a					n/a	0.02	0.50	n/a	0	0	NS
Steller sea lion	**E. U. S.**	~~31,005~~ **31,028**					~~31,005~~ **31,028**	**0.06**	**0.75**	~~1,395~~ **1,396**	~~2.7~~ **—3.4****	**0**	**S**
Steller sea lion	**W.U. S.**	~~34,600~~ **34,595**					~~34,600~~ **34,595**	**0.06**	**0.10**	**208**	~~28.3~~ **24.1**	~~353~~ **167.5**	**S**

C.F. = correction factor; CV C.F. = CV of correction factor; Comb. CV = combined CV; Status: S=Strategic, NS=Not Strategic, n/a = not available.

* = No reported take by fishery observers; however, observer coverage was minimal or nonexistent.

** = this does not include intentional take in British Columbia

see txt = see text for details.

Atlantic and Gulf of Mexico Stocks

Major revisions and updating of Atlantic SARs were only completed for Atlantic Coast strategic stocks and Atlantic Coast and Gulf of Mexico stocks for which significant new information were available.

The SAR for the Western North Atlantic coastal stock of bottlenose dolphins was revised substantially to incorporate the latest information available related to stock structure. Although a single stock is identified, that stock is divided into seven management units, and unit-specific abundance, mortality and potential biological removal (PBR) levels are included. The draft 2002 SAR for the stock initiates a process through which NMFS will continue to collect information to revise stock structure of coastal bottlenose dolphins in the Atlantic Ocean, revise this stock structure as needed, re-assess the status of each stock as it is identified, and revise the depletion regulations for Atlantic coastal bottlenose dolphins as needed.

Table 2 contains a summary, by species, of the information included in the stock assessments, and also indicates those that have been revised since the 1995 publication. A total of 23 of the 60 Atlantic and Gulf of Mexico stock assessment reports were revised for 2002. Most proposed changes incorporate new information into mortality estimates. The revised SARs include 14 strategic and 9 non-strategic stocks. The status of pygmy sperm whale, Western North Atlantic stock, has been changed to strategic because fishing mortality exceeds PBR. Information on human interactions (fishery and ship strikes) for the North Atlantic right whale, North Atlantic humpback whale, and Canadian east coast minke whale stocks were reviewed and updated. The following stock assessments were revised for 2002:

Western North Atlantic stock of North Atlantic right whales;

Gulf of Maine stock of humpback whales;

Western North Atlantic stock of fin whales;

Canadian east coast stock of minke whales;

Western North Atlantic stock of blue whales;

Western North Atlantic stock of dwarf sperm whales;

Western North Atlantic stock of pygmy sperm whales;

Western North Atlantic stock of risso's dolphins;

Western North Atlantic stock of pilot whales, long-finned;

Western North Atlantic stock of pilot whales, short-finned;

Western North Atlantic stock of Atlantic white-sided dolphins;

Western North Atlantic stock of common dolphins;

Western North Atlantic stock of pantropical spotted dolphins;

Western North Atlantic, offshore stock of bottlenose dolphins;

Western North Atlantic, coastal stock of bottlenose dolphins;

Gulf of Maine/Bay of Fundy stock of harbor porpoise;

Western North Atlantic stock of harbor seals;

Western North Atlantic stock of gray seals;

Western North Atlantic stock of harp seals.

TABLE 2. A SUMMARY(including footnotes) OF ATLANTIC MARINE MAMMAL STOCK ASSESSMENT REPORTS FOR STOCKS OF MARINE MAMMALS UNDER NMFS AUTHORITY THAT OCCUPY WATERS UNDER USA JURISDICTION. The "SAR revised" column indicates 2002 stock assessment reports that have been revised relative to the 2001 reports (Y=yes N=no). If abundance, mortality or PBR estimates have been revised, they are indicated with the letters "a", "m" and "p" respectively. For those species not updated in this edition, the year of last revision is indicated.

Species	Stock Area	SRG Region	NMFS Center	Nmin	Rmax	Fr	PBR	Total Annual Mort.	Annual Fish. Mort.	Strategic Status	SAR Revised
North Atlantic right whale	Western North Atlantic	ATL	NEC	291	0	0.1	0.0	~~2.2~~1.8 [1]	1.0 [1]	Y	Y m
Humpback whale	Gulf of Maine	ATL	NEC	~~568~~647	~~0.065~~ 0.10	0.1	~~1.8~~ 1.3	~~4.2~~3.0 [2]	~~3.2~~ 2.8[2]	Y	Y a,m,p
Fin whale	Western North Atlantic	ATL	NEC	2,362	0.04	0.1	4.7	~~1.8~~1.6 [3]	~~0.6~~ 0.4[3]	Y	Y ~~a,m,p~~
Sei whale	Nova Scotia	ATL	NEC	N/A	0.04	0.1	N/A	0.00	0.00	Y	Y text
Minke whale	Canadian east coast	ATL	NEC	3,515	0.04	0.5	35	~~2.4~~2.6 [4]	~~2.2~~2.4 [4]	N	Y ~~a, m, p~~
Blue whale	Western North Atlantic	ATL	NEC	308	0.04	0.1	~~0.6~~ N/A	0.00	0.00	Y	Y p
Sperm whale	North Atlantic	ATL	NEC	3,505	0.04	0.1	7.0	0.00	0.00	Y	Y m
Dwarf sperm whale	Western North Atlantic	ATL	SEC	373 [5]	0.04	0.5	3.7	~~0.25~~ 0	~~0.25~~ 0	N	~~N~~Y m
Pygmy sperm whale	Western North Atlantic	ATL	SEC	373 [5]	0.04	0.5	3.7	~~0.25~~ 6	~~0.25~~ 6	~~N~~ Y	~~N~~Y m
Killer whale	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	0.00	0.00	N	N (1995)
Pygmy killer whale	Western North Atlantic	ATL	SEC	6	0.04	0.5	0.1	0.00	0.00	N	N (1995)
Northern bottlenose whale	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	0.00	0.00	N	N (1998)
Cuvier's beaked whale	Western North Atlantic	ATL	NEC	2,419 [6]	0.04	0.5	24	0	0 [7]	Y	Y m
Mesoplodon beaked whales	Western North Atlantic	ATL	NEC	2,419 [6]	0.04	0.5	24	0	0 [7]	Y	Y m
Risso's dolphin	Western North Atlantic	ATL	NEC	22,916	0.04	0.4~~08~~	~~183~~2 220	~~56~~51	~~56~~51	N	Y m, p
Pilot whale, long-finned	Western North Atlantic	ATL	NEC	11,343 [8]	0.04	0.48	108	~~245~~ 195 [9]	~~245~~195 [9]	Y	Y m, p
Pilot whale, short-finned	Western North Atlantic	ATL	SEC	11,343 [8]	0.04	0.48	108	~~245~~ 195[9]	~~245~~ 195[9]	Y	~~N~~Y m
Atlantic white-sided dolphin	Western North Atlantic	ATL	NEC	37,904	0.04	0.48	364	~~136~~ 118	~~136~~ 118	N	Y ~~a,m,p~~
White-beaked dolphin	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	0.00	0.00	N	N (1997)

Species	Stock Area	SRG Region	NMFS Center	Nmin	Rmax	Fr	PBR	Total Annual Mort.	Annual Fish. Mort.	Strategic Status	SAR Revised
Common dolphin	Western North Atlantic	ATL	NEC	23,655	0.04	0.48	227	~~406~~ 375	~~406~~ 375	Y	Y m
Atlantic spotted dolphin	Western North Atlantic	ATL	NEC	27,785 [10]	0.04	0.5	278	7.8 [11]	7.8 [11]	N	N (2000)
Pantropical spotted dolphin	Western North Atlantic	ATL	NEC	8,450	0.04	0.5	84	~~7.8~~ 1 [11]	~~7.8~~ 1 [11]	N	~~N~~Y m
Striped dolphin	Western North Atlantic	ATL	NEC	44,500	0.04	0.5	445	7.3	7.3	N	N (2000)
Spinner dolphin	Western North Atlantic	ATL	NEC	N/A	N/A	N/A	N/A	0.31	0.31	N	N (1998)
Bottlenose dolphin	Western North Atlantic, offshore	ATL	SEC	24,897 [10]	0.04	0.5	249	~~5.3~~ 27	~~5.3~~ 27	N	~~N~~Y m
Bottlenose dolphin	Western North Atlantic, coastal	ATL	SEC	~~2,482~~ N/A [14]	0.04	0.5	~~25~~ N/A [14]	~~46~~ N/A [14]	~~46~~ N/A [14]	Y	Y a, m, p
Harbor porpoise	Gulf of Maine/ Bay of Fundy	ATL	NEC	74,695	0.04	0.5	747	~~382~~ 491 [12]	~~381~~ 467 [12]	Y	Y ~~a,m,p~~
Harbor seal	Western North Atlantic	ATL	NEC	30,990	0.12	1.0	1,859	~~916~~857	~~895~~ 843	N	Y m
Gray seal	Western North Atlantic	ATL	NEC	NA	NA	NA	NA	~~110~~307	~~103~~ 118	N	Y m
Harp seal	Western North Atlantic	ATL	NEC	N/A	N/A	N/A	N/A	~~321,356~~ 321,222 [15]	~~245~~ 111	N	Y m
Hooded seal	Western North Atlantic	ATL	NEC	N/A	N/A	N/A	N/A	5.6	5.6	N	N (1998)
Sperm whale	Northern Gulf of Mexico	ATL	SEC	411	0.04	0.1	0.8	0.00	0.00	Y	N (1995)
Bryde's whale	Northern Gulf of Mexico	ATL	SEC	17	0.04	0.5	0.2	0.00	0.00	N	N (1995)
Cuvier's beaked whale	Northern Gulf of Mexico	ATL	SEC	20	0.04	0.5	0.2	0.00	0.00	N	N (1995)
Blainville's beaked whale	Northern Gulf of Mexico	ATL	SEC	N/A	N/A	N/A	N/A	0.00	0.00	N	N (1995)
Gervais' beaked whale	Northern Gulf of Mexico	ATL	SEC	N/A	N/A	N/A	N/A	0.00	0.00	N	N (1995)
Bottlenose dolphin	Gulf of Mexico Outer continental shelf	ATL	SEC	43,233	0.04	0.5	432	2.8	2.8	N	N (1995)
Bottlenose dolphin	Gulf of Mexico Continental shelf edge and slope	ATL	SEC	4,530	0.04	0.5	45	2.8	2.8	N	N (1995)
Bottlenose dolphin	Western Gulf of Mexico	ATL	SEC	2,938	0.04	0.5	29	13	13	N	N (1996)
Bottlenose dolphin	Northern Gulf of Mexico	ATL	SEC	3,518	0.04	0.5	35	10	10	N	N (1996)

Species	Stock Area	SRG Region	NMFS Center	Nmin	Rmax	Fr	PBR	Total Annual Mort.	Annual Fish. Mort.	Strategic Status	SAR Revised
Bottlenose dolphin	Eastern Gulf of Mexico	ATL	SEC	8,963	0.04	0.5	90	8	8	N	N (1996)
Bottlenose dolphin	Gulf of Mexico bay, sound, and estuarine	ATL	SEC	3,933	0.04	0.5	39	N/A	N/A	Y	N (2000)
Atlantic spotted dolphin	Northern Gulf of Mexico	ATL	SEC	2,255	0.04	0.5	23	1.5	1.5	N	N (1995)
Pantropical spotted dolphin	Northern Gulf of Mexico	ATL	SEC	26,510	0.04	0.5	265	1.5	1.5	N	N (1995)
Striped dolphin	Northern Gulf of Mexico	ATL	SEC	3,409	0.04	0.5	34	0.00	0.00	N	N (1995)
Spinner dolphin	Northern Gulf of Mexico	ATL	SEC	4,465	0.04	0.5	45	0.00	0.00	N	N (1995)
Rough-toothed dolphin	Northern Gulf of Mexico	ATL	SEC	660	0.04	0.5	6.6	0.00	0.00	N	N (1995)
Clymene dolphin	Northern Gulf of Mexico	ATL	SEC	4,120	0.04	0.5	41	0.00	0.00	N	N (1995)
Fraser's dolphin	Northern Gulf of Mexico	ATL	SEC	66	0.04	0.5	0.7	0.00	0.00	N	N (1995)
Killer whale	Northern Gulf of Mexico	ATL	SEC	197	0.04	0.5	2.0	0.00	0.00	N	N (1995)
False killer whale	Northern Gulf of Mexico	ATL	SEC	236	0.04	0.5	2.4	0.00	0.00	N	N (1995)
Pygmy killer whale	Northern Gulf of Mexico	ATL	SEC	285	0.04	0.05	2.8	0.00	0.00	N	N (1995)
Dwarf sperm whale	Northern Gulf of Mexico	ATL	SEC	N/A	0.04	N/A	N/A	0.00	0.00	N	N (2000)
Pygmy sperm whale	Northern Gulf of Mexico	ATL	SEC	N/A	0.04	N/A	N/A	0.00	0.00	N	N (2000)
Melon-headed whale	Northern Gulf of Mexico	ATL	SEC	2,888	0.04	0.5	29	0.00	0.00	N	N (1995)
Risso's dolphin	Northern Gulf of Mexico	ATL	SEC	2,199	0.04	0.5	22	19	19	N	N (1995)
Pilot whale, short-finned	Northern Gulf of Mexico	ATL	SEC	186	0.04	0.5	1.9	0.3	0.3	Y	N (1995)

1. The total estimated human-caused mortality and serious injury to right whales is estimated at ~~2.2~~1.8 per year (USA waters, 1.~~4~~2; Canadian waters, 0.~~8~~6). This is derived from two components: 1) non-observed fishery entanglement records at 1.0 per year (USA waters, 0.6 ; Canadian waters, 0.4), and 2) ship strike records at ~~1.2~~0.8 per year (USA waters, ~~0.8~~0.6 ; Canadian waters, ~~0.4~~0.2).
2. The total estimated human-caused mortality and serious injury to the Gulf of Maine humpback whale stock is estimated as ~~4.2~~3.0 per year (USA waters, ~~3.8~~2.4; Canadian waters, ~~0.4~~0.6). This average is derived from two components: 1) incidental fishery interaction records ~~3.2~~2.8 (USA waters, ~~2.8~~2.2; Canadian waters, ~~0.4~~0.6); and 2) records of vessel collisions, ~~1.0~~0.2 (USA waters, ~~1.0~~0.2; Canadian waters, 0).
3. This is based on a review of NMFS anecdotal records from 199~~5-1999~~6-2000, that yielded an average of ~~1.8~~1.6 human caused mortality -1.2 ship strikes (all US waters), ~~0.6~~0.4 fishery interactions (~~0.4~~0.2 US waters, 0.2 Canadian waters).
4. During 199~~56~~ to ~~1998~~2000, the USA total annual estimated average human-caused mortality is 2.~~4~~6 minke whales per year. This is derived from three components: 0 minke whales per year (CV=0.0) from USA fisheries using observer data, 2.~~2~~4 minke whales per year from USA fisheries using strandings and entanglement data, and 0.2 minke whales per year from ship strikes.
5. This estimate may include both the dwarf and pygmy sperm whales.
6. This estimate includes Cuvier's beaked whales and undifferentiated *Mesoplodon* spp. beaked whales.
7. This is the average mortality of undifferentiated beaked whales (*Mesoplodon* spp.)
8. This estimate may include both long-finned and short-finned pilot whales.
9. Mortality data are not separated by species; therefore, species-specific estimates are not available. This mortality estimate represents both long-finned and short-finned pilot whales. Total annual mortality includes Nova Scotia ~~95-96~~1996 average of ~~8~~6 long-finned pilot whales.
10. Estimates may include sightings of the coastal form.
11. Mortality data are not separated by species; therefore, species-specific estimates are not available. The mortality estimate represents both Atlantic and Pantropical spotted dolphins
12. The total annual estimated average human-caused mortality is ~~382~~491 harbor porpoises per year. This is derived from four components: ~~323~~457 harbor porpoise per year (CV=0.25) from USA fisheries using observer data, ~~39~~23 per year (unknown CV) from Canadian fisheries using observer data, ~~19~~10 per year from USA unknown fisheries using strandings data, and 1 per year from unknown human-caused mortality (a mutilated stranded harbor porpoise).
13. The total estimated human caused annual mortality and serious injury to harp seals was ~~321,356~~321,222. This is derived from three components: 1) 199~~56-1999~~2000 average catches of Northwest Atlantic harp seals by Canada and Greenland 301,611; 2) 199~~5-1999~~6-2000 average bycatches in the Newfoundland lumpfish fishery (16,000 - 23,000 annually); and 3) the 199~~5-1999~~6-2000 observed USA fisheries, ~~245~~111 harp seals CV= 0.2~~0~~9)
14. **Several seasonal management units have been defined for the coastal bottlenose dolphin. Each has a unique abundance estimate, PBR and mortality estimate provided in the Western North Atlantic coastal bottlenose dolphin species section of the text.**

Pacific Stocks

The Pacific SARs present revised stock assessments for 13 Pacific marine mammal stocks under NMFS' jurisdiction. Information on the remaining 43 Pacific region stocks will be printed unrevised in the final 2002 stock assessments. In the 2002 SARs, there are now four stocks of harbor porpoise occurring in California waters, where previously there had been two. These new stock boundaries reflect recent genetic analyses on the small-scale population structure of harbor porpoise in the eastern North Pacific (Chivers *et al.*, in press).

Fishery mortality estimates for Hawaiian monk seals have been revised by separating deaths caused by entanglement in derelict fishing gear from mortality and serious injury incidental to commercial fishing and including those deaths in ''other human-caused mortality''. This change was made to include as incidental mortality and serious injury only those deaths and serious injuries that are caused by active fishing operations and, therefore, subject to authorization and regulation through section 118 of the MMPA.

The stock assessment for the Eastern North Pacific transient killer whale now appears in the Alaska region report. Table 3 contains a summary, by species, of the information included in the stock assessments and new abundance estimates are available for 12 stocks for 2002 SARs:

Hawaii stock of monk seals;

CA breeding stock of northern elephant seals;

Washington Inland waters stock of harbor seals;

Oregon/Washington coast stock of harbor seals;

Southern Resident stock of killer whales;

Washington Inland waters stock of harbor porpoise;

Oregon/Washington cost stock of harbor porpoise;

Northern CA/Southern OR stock of harbor porpoise;

San Francisco-Russian River stock of harbor porpoise;

Monterey Bay stock of harbor porpoise;

Morro Bay stock of harbor porpoise;

Eastern North Pacific stock of humpback whales.

Table 3. Summary of 2002 draft U.S. Pacific Marine Mammal Stock Assessment Reports. Only stocks being revised in 2002 are included in this table. Information on other stocks will be included in the final 2002 stock assessment reports.

Species	Stock Area	Region	NMFS Center	N_{min}	R_{max}	F_r	PBR	Total Annual Mortality + Serious Injury	Annual Fish. Mortality + Serious Injury	Strategic Status
Monk Seal	Hawaii	PAC	SWC	~~1,436~~ 1,437	0.07	0.1	5	n/a	n/a	Y
Northern Elephant Seal	CA breeding stock	PAC	SWC	~~51,625~~ 60,547	0.083	1.0	~~2,142~~ 2,513	≥ ~~33~~88	≥ ~~33~~86	N
Harbor Seal	Washington Inland waters	PAC	AKC	~~15,174~~ 12,844	0.12	1.0	~~910~~ 771	≥ ~~43~~34	≥ ~~38~~30	N
Harbor Seal	Oregon/ Washington coast	PAC	AKC	~~24,705~~ 22,380	0.12	1.0	~~1,482~~ 1,343	≥ ~~18~~17	≥ ~~16~~16	N
Killer Whale	Southern Resident	PAC	AKC	~~82~~78	0.04	0.5	0.8	0	0	N
Harbor Porpoise	Washington Inland waters	PAC	AKC	2,545	0.04	0.4	20	≥ ~~15~~15	≥ ~~15~~15	N
Harbor Porpoise	Oregon/ Washington coast	PAC	AKC	~~32,769~~ 28,967	0.04	0.5	~~328~~ 290	~~12~~ 9	~~12~~ 9	N
Harbor Porpoise	Northern CA/ Southern OR	PAC	SWC	~~11,054~~ 12,940	0.04	1.0	~~221~~ 259	≥ ~~0.2~~ 0	≥ ~~0.2~~ 0	N
Harbor Porpoise	**San Francisco-Russian River†**	**PAC**	**SWC**	**4,858**	**0.04**	**0.5**	**49**	**≥ 0.4**	**≥ 0.4**	**N**
Harbor Porpoise	**Monterey Bay†**	**PAC**	**SWC**	**1,151**	**0.04**	**0.5**	**11**	**80**	**80**	**Y**
Harbor Porpoise	**Morro Bay†**	**PAC**	**SWC**	**669**	**0.04**	**0.5**	**7**	**3.2**	**3.2**	**N**
False Killer Whale	Hawaii	PAC	SWC	83	0.04	0.5	0.8	~~9.0~~ 7.0	~~9.0~~ 7.0	Y
Humpback Whale	Eastern North Pacific	PAC	SWC	~~944~~ 774	0.08	0.1	~~1.9~~ 1.6	~~1.4~~ ≥ 1.2	~~1.2~~ ≥ 0.8	Y

† new stock

New information on changes in the Hawaiian longline fishery is presented in the Hawaii false killer whale report.

Dated: April 12, 2002.

Wanda L. Cain,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–9684 Filed 4–18–02; 8:45 am]

BILLING CODE 3510–22–C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0141]

Federal Acquisition Regulation; Submission for OMB Review; Buy American Act—Construction (Grimberg Decision)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0141).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information requirement concerning Buy American Act—Construction collection (Grimberg Decision). A request for public comments was published at 67 FR 6012, February 8, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before May 20, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clauses at FAR 52.225–5, Buy American Act—Construction Materials, and FAR 52.225–15, Buy American Act—Construction Materials under Trade Agreements Act and North American Free Trade Agreement, provide that offerors/contractors requesting to use foreign construction material, other than construction material eligible under a trade agreement, shall provide adequate information for Government evaluation of the request. These regulations implement the Buy American Act for construction (41U.S.C. 10a—10d).

B. Annual Reporting Burden

Respondents: 500.
Responses Per Respondent: 2.
Annual Responses: 1,000.
Hours Per Response: 2.5.
Total Burden Hours: 2,500.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0141 regarding Buy American Act—Construction (Grimberg Decision) in all correspondence.

Dated: April 15, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–9532 Filed 4–18–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0091]

Federal Acquisition Regulation; Submission for OMB Review; Anti-Kickback Procedures

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning anti-kickback procedures. A request for public comments was published in the **Federal Register** at 67 FR 6234, on February 11, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before May 20, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0091, Anti-Kickback Procedures, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ralph DeStefano, Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal Acquisition Regulation (FAR) 52.203–7, Anti-Kickback Procedures, requires that all contractors have in place and follow reasonable procedures designed to prevent and detect in its own operations and direct business relationships, violations of section 3 of the Anti-Kickback Act of 1986 (41 U.S.C. 51–58). Whenever prime contractors or subcontractors have reasonable grounds to believe that a violation of section 3 of the Act may have occurred, they are required to report the possible violation in writing to the contracting agency or the Department of Justice. The information is used to determine if any violations of section 3 of the Act have occurred.

B. Annual Reporting Burden

Respondents: 100.
Responses Per Respondent: 1.
Annual Responses: 100.

Hours Per Response: 1.

Total Burden Hours: 100.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0091, Anti-Kickback Procedures, in all correspondence.

Dated: April 15, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–9533 Filed 4–18–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Closed Meeting

AGENCY: Defense Intelligence Agency, Joint Military Intelligence College, DoD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Joint Military Intelligence College Board of Visitors has been scheduled as follows:

DATES: Tuesday, 4 June 2002, 0800 to 1700; and Wednesday, 5 June 2002, 0800 to 1200.

ADDRESSES: Joint Military Intelligence College, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Mr. A. Denis Clift, President, DIA Joint Military Intelligence College, Washington, DC 20340–5100 (202/231–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed. The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the Joint Military Intelligence College.

Dated: April 15, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–9623 Filed 4–18–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting

SUMMARY: The Defense Science Board (DSB) Task Force on Defense Against Unconventional Use of Nuclear Weapons Against the US Homeland will meet in closed session on May 23–24, 2002, at the Los Alamos National Laboratory, Albuquerque, NM; June 20–21, 2002, in Norfolk, VA; and July 18–19, 2002, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. The Task Force will review the Department of Defense's (DoD) responsibilities, current capabilities, and the scope of activities conducted by DoD to ensure its future preparedness to prevent, deter, detect, identify, warn, defend against, respond to, and attribute attack of the U.S. homeland by unconventional delivery of conventional and unconventional nuclear weapons, as well as radiological weapons.

The mission of the DSB is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Task Force will determine the adequacy of the U.S. ability to detect, identify, respond, and prevent unconventional nuclear attacks by terrorist or sub national entities. The Task Force will also identify capabilities of the Department to provide protection against such nuclear attacks in support of national capabilities in homeland defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, the meetings will be closed to the public.

Dated: April 12, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–9622 Filed 4–18–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Novel Dendrimer Based Detection Technology for Exclusive, Partially Exclusive or Non-Exclusive Licenses

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses relative to a noise abatement technology as described in U.S. Patent Application entitled: ''Compositions and Methods for Enhancing Bioassay Performance Through Nanomanipulation; Yin, R.; *et. al.*'' This applicationis a continuation-in-part of application Serial No. 09/448,403, filed November 22, 1999, which in turn was a non-provisional continuation of provisional application Serial No. 60/156,293, filed on September 22, 1999. Licenses shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–DP–T/Bldg. 459, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–9643 Filed 4–18–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Availability of a Draft Evaluation Report and Draft Environmental Impact Statement, Tuttle Creek Dam Safety Assurance Program, Big Blue River, near the City of Manhattan, Riley and Pottawatomie Counties, KS

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE or Corps) Kansas City District, in cooperation with U.S. Environmental Protection Agency, has prepared a Draft Evaluation Report and Draft Environmental Impact Statement

(DEvR/DEIS). This study identifies deficiencies in the foundation of the existing dam that could lead to failure in the event of a major earthquake. In addition, minor deficiencies were identified in the existing tainter gate system and with the existing amount of freeboard that could adversely affect performance of the dam during a major flood event. Failure of the structure in the event of a major earthquake or flood would have significant adverse impacts on the human environment, including property damage and potential loss of human life. Considering these potential significant impacts on the human environment, and in accordance with the NEPA, the Corps initiated preparation of an Evaluation Report and Environmental Impact Statement (EvR/EIS). This DevR/DEIS presents a screening level analysis of several alternatives considered during scoping and a detailed analysis of four alternatives that would minimize the potential for loss of human life and property damage related to failure of the dam in the event of a major earthquake. These included: Restricted Lake Operation; Stabilize Foundation Soil with Drawdown; Stabilize Foundation Soil without Drawdown; and Enlarge Embankment. The DEIS identifies Stabilize Foundation Soil without Drawdown as the Corps' Preferred Alternative. In addition, the Corps considered the ''No Action'' Alternative. The Corps also identified potential measures to ensure satisfactory performance of the dam during a major flood. These measures include minor repair work on the existing tainter gate system and construction of a ''Jersey barrier'' wall across the top of the dam to increase freeboard and prevent wind and wave wash. The DEvR/EIS presents a detailed study of the environmental impacts of the five alternatives listed above, the minor measures needed to ensure satisfactory performance of the dam during a major flood, and an interim measure proposed to enhance public safety.

DATES: Submit comments by June 10, 2002.

ADDRESSES: Send written comments and suggestions concerning this proposal to William B. Empson, P.E., Project Manager, Tuttle Creek Dam Safety Assurance Program, U.S. Army Corps of Engineers, Kansas City District, Attn: Dam Safety and Support Section (EC–GD), 700 Federal Building, 601 E. 12th St., Kansas City, MO 64106 or via E-mail: *tcdam.nwk@usace.army.mil* or the Tuttle Creek Dam Safety Assurance Program Web site: *http://www.nwk.usace.army.mil/tcdam.* Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: William B. Empson, P.E., Project Manager, Tuttle Creek Dam Safety Assurance Study, USACE, Kansas City District, at the above address, telephone (816) 983–3556 or via e-mail: *tcdam.nwk@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The proposed project must also address environmental impacts relative to the Clean Air Act, Clean Water Act, Endangered Species Act and the Fish and Wildlife Coordination Act (FWCA). In accordance with the NEPA, the DEvR/DEIS evaluates reasonable alternatives for the USACE's decision making process. As required by NEPA, the USACE also analyzes the ''no action'' alternative as a baseline for gauging potential impacts. As part of the public involvement process, notice is hereby given by the USACE–Kansas City District of a public meeting to be held at the Holiday Inn, 530 Richards Drive, Manhattan, KS, beginning at 7 p.m. on May 2, 2002. The public meeting will allow participants the opportunity to comment on the DEvR/DEIS prepared for the Tuttle Creek Dam Safety Assurance Study. Written comments should be submitted to the address above. Copies of the document may also be obtained from the same address.

Copies of the DEvR/DEIS are also available for inspection at the locations identified below:

(1) Manhattan Public Library, 629 Poyntz Ave., Manhattan, KS 66506.

(2) Hale Library, Kansas State University, Manhattan, KS 66506.

(3) Wamego Public Library, 408 Elm St., Wamego, KS66547.

(4) Topeka & Shawnee County Public Library, 1515 SW 10th Ave., Topeka, KS 66604.

(5) Lawrence Public Library, 707 Vermont, Lawrence, KS 66044.

(6) Kansas State Library, 300 SW 10th Ave./Room 343–N, Topeka, KS 66612.

(7) Marysville Public Library, 1009 Broadway, Marysville, KS 66508.

(8)The Tuttle Creek Dam Safety Assurance Program website at *http://www.nwk.usace.army.mil/tcdam.*

(9) Rm. 747—Library, U.S. Army Corps. of Engineers, Kansas City District, 601 E. 12st St., Kansas City, MO 64106.

(10) Corps Lake Project Offices in the study area including Tuttle Creek Lake Project Office, 5020 Tuttle Creek Blvd., Manhattan, KS 66502.

After the public comment period ends, USACE will consider all comments received, revise the DEvR/DEIS as appropriate, and issue a Final Evaluation Report and Final Environmental Impact Statement.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–9645 Filed 4–18–02; 8:45 am]

BILLING CODE 3710–KN–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Availability of the Draft Environmental Assessment for the Green Brook Flood Control Project, Segments A and N

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (USACE), New York District, is issuing this notice to announce the availability for public review and comment of a draft Environmental Assessment (EA) for the proposed project modification of the Green Brook Flood Control Project in Segments A and N. The environmental impacts of the project were previously evaluated in the Final Environmental Impact Statement (FEIS) for the Proposed Plan for the Green Brook Flood Control Project in the Green Brook Sub-Basin, Somerset, Middlesex, and Union Counties, New Jersey, filed in August 1980, and the Final Supplemental Environmental Impact Statement (FSEIS) and Final General Reevaluation Report (FGRR) for the Proposed Plan for the Green Brook Flood Control Project in the Green Brook Sub-Basin, Somerset, Middlesex, and Union Counties, New Jersey, filed in May 1997. The EA documents and addresses the environmental impacts of the following project changes: (1) Buy-outs of properties in place of other flood proofing measures for up to 18 properties at Prospect Place, Borough of Middlesex, Middlesex County, in Segment N of the project; (2) Buy-outs of up to an additional 4 properties at Prospect Place, not previously identified to receive non-structural flood protection; and (3) By-outs of up to three commercial properties along Raritan Avenue and Lincoln Boulevard, Borough of Middlesex, Middlesex County, to eliminate the need for construction of structural flood protection elements in Segment A of the project which had included a levee and floodwall alignment with pump station. Congressional authorization of the post authorization project change was included in the Energy and Water Development Appropriations Act of

2002, Public Law 107–258. It is anticipated that the proposed non-structural alternatives for flood protection in Segment A and Segment N of the project will provide benefits to the environmental quality of the floodplain in the area and reduce adverse impacts of the project to forested wetland and upland habitat. Public comments on the EA will assist in the Corps' evaluation of the project modification and will be reflected in the final EA.

DATES: The draft EA will be available for public review from April 22, 2002 through May 22, 2002. Written comments must be received by May 22, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Megan Grubb, Project Biologist, Planning Division, Environmental Analysis Branch, U.S. Army Corps of Engineers, New York District, 26 Federal Plaza, Room 2146, New York, New York, 10278–0090, at (202) 264–5759 or at *megan.b.grubb@usace.army.mil.* Written comments are to be provided to Ms. Grubb.

SUPPLEMENTARY INFORMATION: The overall Green Brook basin encompasses sixty-five (65)square miles within the State of New Jersey in the counties of Somerset, Middlesex, and Union and Incorporates the Green Brook sub-basin of the Raritan River Basin, a short reach of the Raritan River along the border of the Borough of Bound Brook and the Middle Brook tributary to the Raritan River. This EA addresses project changes for project Segment A and Prospect Place in project Segment N in the Borough of Middlesex, Middlesex County, along Green Brook and Ambrose Brook, due north of the conference of these tributaries and the confluence with the Raritan River.

Public coordination and communications with the Borough of Middlesex, the Green Brook Flood Commission, and the State of New Jersey, since the time of release of the 1997 FSEIS and GFRR, have yielded a locally preferred plan for the Prospect Place area that differs slightly from the recommended plan identified in those documents. The Hurricane Floyd storm event, which occurred in 1999, caused significant destruction to the Green Brook sub-basin and raised concerns over the adequacy of flood protection provided by the National Economic Development (NED) plan for the area. The local sponsors determined that a locally preferred plan of buy-outs for up to twenty-two (22) properties along Prospect Place would be supported in substitution of other flood proofing measures that would not prevent damages from a reoccurrence of a storm event similar to the 1999 Hurricane Floyd storm.

The local sponsors for the Green Brook Flood Control Project also requested that three commercial properties, along Raritan Avenue and Lincoln Boulevard, that were proposed to be protected by a proposed levee/floodwall as described in the Corps' 1997 recommended NED plan, be bought out as part of the project plan. Ten other properties along Raritan Avenue, that were proposed to be protected by the Segment A levee alignment on the east side of Ambrose Brook, were bought out by the Federal Emergency Management Agency and the State of New Jersey following the 1999 storm event. Expansion of the buy-out area to include the three properties at the south end of Raritan Avenue and the intersection with Lincoln Boulevard reduces the flood protection need for a levee and floodwall in Segment A. The elimination of the levee and floodwall alignment and a supporting pump station would yield a project cost savings, as well as reduce adverse environmental impacts of the project.

Luz D. Oritz,

Army Federal Liaison Officer.

[FR Doc. 02–9644 Filed 4–18–02; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Cancellation of the Availability for a Draft Environmental Impact Statement To Consider Issuance of a Department of the Army Permit Pursuant to Section 404 of the Clean Water Act for Fills Associated With Hobet Mining, Inc.'s Proposed Surface Coal Mining Operation in Conjunction With Its Spruce No. 1 Surface Mine, Near Blair in Logan County, WV

AGENCY: Department of the Army, Army Corps of Engineers, DoD.

ACTION: Notice; cancellation.

SUMMARY: This cancellation is necessitated in order to amend the Draft Environmental Impact Statement (DEIS) to include socioeconomic data that was erroneously omitted; reference notice published in the **Federal Register**, April 10, 2002 (67 FR 17418). A notice of availability for the DEIS will be published at a later date. In addition, the public hearing scheduled for April 24th at 6:30 p.m. at the Park Restaurant, Chief Logan State Park has been postponed. The public will be notified of the forthcoming public hearing date, location and time, as well as the comment period expiration date. Any comments received in the meantime will be made a part of the administrative record and will be considered in the Final Environmental Impact Statement.

FOR FURTHER INFORMATION CONTACT: Teresa (Hughes) Spagna, U.S. Army Corps of Engineers, Huntington District, Attn: Regulatory Branch–OR–FS, 502 8th Street, Huntington, West Virginia 25701, telephone (304) 529–5710 or electronic mail at *Teresa.D.Hughes@Lrh01.usace.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Office.

[FR Doc. 02–9646 Filed 4–18–02; 8:45 am]

BILLING CODE 3710–GM–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On April 16, 2002, a notice inviting comment from the public, was published for ''National Longitudinal Transition Study—2 (NLTS2)'' in the **Federal Register** (67 FR 18596). On page 18596, in the second column, 10th line from the bottom of the column, *Type of Review* should read, ''Reinstatement''. The Leader, Regulatory Information Management, Office of the Chief Information Officer, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: April 16, 2002.

John D. Tressler,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

[FR Doc. 02–9632 Filed 4–18–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Student Financial Assistance

AGENCY: Department of Education.

ACTION: Notice of ''Ability-to-Benefit'' Tests and Passing Scores.

SUMMARY: This notice extends the Secretary's approval of seven ''ability-to-benefit'' (ATB) tests for five years. Additionally, the Secretary, at the request of the test publisher is removing the Test of Adult Basic Education (TABE)—Forms 5 and 6, Level A, as an

approved ATB test. An institution may use the seven tests which have been extended, plus the American College Testing (ACT) Assessment and the Combined English Language Skills Assessment (CELSA) tests that were approved after October 25, 1996, to determine if a student who does not have a high school diploma or its recognized equivalent is eligible to receive funds under any title IV, HEA program. The title IV, HEA programs include the Federal Pell Grant, Federal Family Education Loan, William D. Ford Federal Direct Loan, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, and the Leveraging Educational Assistance Partnership (LEAP) programs.

DATES:

Duration of Approval

The Secretary approves each of these seven tests for five years from April 19, 2002, unless the Secretary withdraws this approval or the test publisher requests that approval of a test be withdrawn. In either case, the Secretary will publish a notice in the **Federal Register** indicating the change.

Transition

Institutions are allowed to continue to make ATB eligibility determinations using the tests and passing scores that were listed in the January 12, 2001 **Federal Register**, including the TABE—Forms 5 & 6, Level A until June 18, 2002. After that date only the passing scores included in this notice must be used. (The passing scores for the ACT Assessment and the CELSA remain unchanged.) In addition, after that date, an institution may not use the TABE—Forms 5 & 6, Level A as an approved ATB test.

FOR FURTHER INFORMATION CONTACT: Lorraine Kennedy, U.S. Department of Education, 400 Maryland Avenue, SW., (830 Union Center Plaza), Washington, DC 20202–5345. Telephone: (202) 377–4050.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION: On October 25, 1996, we published a notice in the **Federal Register** (61 FR 55542–55543) that provided a list of eight ''ability-to-benefit'' tests. These tests were approved under section 484(d) of the HEA and the regulations that were promulgated to implement that section in 34 CFR part 668, subpart J. The notice also included approved passing scores for each of the approved tests.

In a notice published in the **Federal Register** on October 27, 1998, (63 FR 57540–57541), we added the American College Testing (ACT) Assessment to the list of approved ability-to-benefit tests.

In a notice published in the **Federal Register** on May 5, 1999, (64 FR 24246–24247), we indicated that the nine approved ATB tests could be used for testing students with disabilities if the tests are given in a manner that is consistent with the applicable requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

Additionally, on January 12, 2001 (66 FR 2892–2893), we approved the Combined English Language Skills Assessment (CELSA) test as an English as a Second Language (ESL) test under 34 CFR 668.153(a)(9) and (a)(4).

LIST OF APPROVED TESTS AND PASSING SCORES: The first seven ATB tests listed below have been extended for 5 years. For the convenience of all interested parties, we have listed the seven extended ATB tests and passing scores followed by the two previously approved ATB tests and passing scores.

1. *ASSET Program:* Basic Skills Tests (Reading, Writing, and Numerical)—Forms B2, C2, D2 and E2.

Passing Scores: The approved passing scores on this test are as follows:

Reading (35), Writing (35), and Numerical (33).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

American College Testing (ACT), Placement Assessment Programs, 2201 North Dodge Street, P.O. Box 168, Iowa City, Iowa 52243, Contact: Dr. John D. Roth, Telephone: (319) 337–1030, Fax: (319) 337–1790.

2. Career Programs Assessment (CPAT) Basic Skills Subtests

(Language Usage, Reading and Numerical)—Forms B and C

Passing Scores: The approved passing scores on this test are as follows:

Language Usage (42), Reading (43), and Numerical (41).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

American College Testing (ACT), Placement Assessment Programs, 2201 North Dodge Street, P.O. Box 168, Iowa City, Iowa 52243, Contact: Dr. John D. Roth, Telephone: (319) 337–1030, Fax: (319) 337–1790.

3. COMPASS Subtests: Prealgebra/Numerical Skills Placement, Reading Placement, and Writing Placement

Passing Scores: The approved passing scores on this test are as follows: Prealgebra/Numerical (25), Reading (62), and Writing (32).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

American College Testing (ACT), Placement Assessment Programs 2201 North Dodge Street, P.O. Box 168, Iowa City, Iowa 52243, Contact: Dr. John D. Roth, Telephone: (319) 337–1030, Fax: (319) 337–1790.

4. Computerized Placement Tests (CPTs)/Accuplacer (Reading Comprehension, Sentence Skills, and Arithmetic)

Passing Scores: The approved passing scores on this test are as follows:

Reading Comprehension (55), Sentence Skills (60), and Arithmetic (34).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

The College Board, 45 Columbus Avenue, New York, New York 10023–6992, Contact: Ms. Suzanne Murphy, Telephone: (405) 842–9891, Fax: (405) 842–9894.

5. Descriptive Tests: Descriptive Tests of Language Skills (DTLS) (Reading Comprehension, Sentence Structure and Conventions of Written English)—Forms M–K–3KDT and M–K–3LDT; and Descriptive Tests of Mathematical Skills (DTMS) (Arithmetic)—Forms M–K–3KDT and M–K–3LDT

Passing Scores: The approved passing scores on this test are as follows:

Reading Comprehension (108), Sentence Structure (9), Conventions of Written English (309), and Arithmetic (506).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

The College Board, 45 Columbus Avenue, New York, New York 10023–6992, Contact: Ms. Suzanne Murphy, Telephone: (405) 842–9891, Fax: (405) 842–9894.

6. Test of Adult Basic Education (TABE): (Reading, Total Mathematics, Language)—Forms 7 and 8, Level A, Complete Battery and Survey Versions

Passing Scores: The approved passing scores on this test are as follows:

Reading (559), Total Mathematics (562), Language (545).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

CTB/McGraw-Hill, 20 Ryan Ranch Road, Monterey, California 93940–5703, Contact: Ms. Veronika Henderson, Telephone: (831) 393–7363, Fax: (831) 393–7142.

7. Wonderlic Basic Skills Test (WBST)—Verbal Forms VS–1 & VS–2, Quantitative Forms QS–1 & QS–2

Passing scores: The approved passing scores on this test are as follows:

Verbal (200) and Quantitative (210).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

Wonderlic Personnel Test, Inc., 1509 N. Milwaukee Ave., Libertyville, IL 60048–1380, Contact: Mr. Victor S. Artese, Telephone: (800) 323–3742, Fax: (847) 680–9492.

8. American College Testing (ACT) Assessment: (English and Math)

Passing Scores: The approved passing scores on this test are as follows:

English (14) and Math (15).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

American College Testing (ACT), Placement Assessment Programs, 2201 North Dodge Street, P.O. Box 168, Iowa City, Iowa 52243, Contact: Dr. James Maxey, Telephone: (319) 337–1100, Fax: (319) 337–1790.

9. Combined English Language Skills Assessment (CELSA), Forms 1 and 2

Passing Scores: The approved passing scores on this test are as follows:

CELSA Form 1 (90) and CELSA Form 2 (90).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

Association of Classroom Teacher Testers (ACTT), 1187 Coast Village Road, PMB 378, Montecito, California 93108–2794, Contact: Pablo Buckelew, Telephone: (805) 569–0734, Fax: (805) 569–0004.

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www.ed.gov/legislation/FedRegister

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http://www.access.gpo.gov/nara/index.html

Program Authority: 20 U.S.C. 1091(d).

Dated: April 16, 2002.

John Reeves,

Acting Chief Operating Officer, Student Financial Assistance.

[FR Doc. 02–9666 Filed 4–18–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Surplus Plutonium Disposition Program

AGENCY: Department of Energy, National Nuclear Security Administration.

ACTION: Amended Record of Decision.

SUMMARY: The U.S. Department of Energy's National Nuclear Security Administration (DOE/NNSA) is amending the Records of Decision (RODs) for the *Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement* (Storage and Disposition PEIS) and *Surplus Plutonium Disposition Environmental Impact Statement* (SPD EIS). Specifically, DOE/NNSA is announcing the following three revisions to the decisions contained in those RODs: (1) Cancellation of the immobilization portion of the disposition strategies announced in those RODs due to budgetary constraints, (2) selection of the alternative of immediate implementation of consolidated long-term storage at the Savannah River Site (SRS) of surplus non-pit plutonium now stored separately at the Rocky Flats Environmental Technology Site (RFETS) and SRS, and (3) adjustment in the manner in which surplus plutonium pits will be stored at the Pantex Plant (Pantex). Cancellation of the immobilization facility and selection of this storage alternative remove the basis for the contingency contained in previous RODs conditioning transport of non-pit surplus plutonium from RFETS to SRS for storage on the selection of SRS as the site for the immobilization facilities, and those RODs are so amended. DOE will notify the Congress and consult with the Governor of South Carolina before shipping plutonium to SRS, in accordance with The National Defense Authorization Act for Fiscal Year 2002.

Under this amended ROD, DOE/NNSA will continue to store surplus plutonium pits at Pantex in the facility where they are currently located rather than transfer the pits to a different facility at the same site, as announced in the Storage and Disposition PEIS ROD.

In response to a statutory directive, DOE/NNSA has submitted to Congress a report on a strategy for the disposal of surplus plutonium currently located at, or to be shipped to SRS. That strategy involves converting this plutonium to a mixed-oxide (MOX) fuel and irradiating it in commercial power reactors. DOE/NNSA is currently evaluating the changes to the MOX fuel portion of the surplus plutonium disposition program necessitated by this strategy, including the need for additional environmental reviews pursuant to the National Environmental Policy Act (NEPA). No final decisions regarding the MOX portion of the program will be made until these reviews are completed.

FOR FURTHER INFORMATION CONTACT: For further information concerning the disposition of surplus plutonium or this amended ROD, contact Hitesh Nigam, Deputy NEPA Compliance Officer, Office of Fissile Materials Disposition, National Nuclear Security Administration, 1000 Independence Avenue, SW, Washington DC, 20585, 800–820–5134. Additional information regarding the DOE/NNSA Fissile Materials Disposition Program is available on the Internet at *http://www.doe-md.com* (when accessible).

For further information concerning DOE's NEPA process, contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585. Telephone (202) 586–4600, or leave a message at 1–800–472–2756.

Additional information regarding the DOE NEPA process and activities is also available on the Internet through the NEPA home page at *http://tis.eh.doe.gov/nepa.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Historical Context for the Decisions on the Plutonium Storage and Disposition Program Announced in This Amended ROD

The end of the Cold War created a legacy of surplus weapons-usable fissile materials in both the United States and Russia. The United States and Russia have been working together to reduce

the threat of nuclear weapons proliferation worldwide by implementing programs for dispositioning surplus plutonium in a safe, secure, environmentally acceptable, and timely manner. Russia and the United States have issued numerous statements and agreements to this effect since the mid-1990's. The most recent is the Agreement between the Government of the United States of America and the Government of the Russian Federation Concerning the Management and Disposition of Plutonium Designated as No Longer Required for Defense Purposes and Related Cooperation signed in September, 2000. This agreement provides that the United States and Russia will each dispose of 34 t of ''weapons-grade'' plutonium, and allows for disposition either by immobilization, or by MOX fuel fabrication and subsequent irradiation. One purpose of DOE/NNSA's Surplus Plutonium Disposition Program is to help implement this agreement.

However, in addition to achieving the ultimate goal of permanent disposition of surplus plutonium materials, DOE independently needs to improve the configuration of the storage system for these materials, pending disposition. These improvements will allow DOE to significantly reduce storage costs, expedite closure and cleanup of sites and facilities in its nuclear complex, and enhance the security of these materials.

DOE's Office of Fissile Materials Disposition (now part of NNSA) has prepared a number of NEPA documents regarding the United States' Surplus Plutonium Disposition Program. The Storage and Disposition PEIS (DOE/EIS–0229, December 1996) evaluated alternative strategies and locations both for long-term storage (up to 50 years) and for disposition of weapons-usable fissile materials. Among the alternatives analyzed in that PEIS was consolidated long-term storage at each of four candidate sites.

The SPD EIS (DOE/EIS–0283, November 1999), which tiered from the Storage and Disposition PEIS, evaluated site-specific alternatives for the construction and operation of three facilities for disposition of up to 50 t [1] of surplus weapons-usable [2] (weapons-grade [3] and non-weapons-grade) plutonium. These three facilities would have performed, respectively, pit disassembly and conversion, plutonium immobilization, and MOX fuel fabrication. The SPD EIS also evaluated the use of six domestic commercial reactors for irradiation of MOX fuel.

B. Previous Decisions on the Surplus Plutonium Disposition Program

• In the initial ROD for the Storage and Disposition PEIS (62 FR 3014, January 21, 1997), DOE made two sets of decisions, one addressed to disposition of surplus plutonium and one addressed to storage of this material. With regard to disposition, DOE determined, consistent with the Preferred Alternative analyzed in the Storage and Disposition PEIS, to pursue a hybrid approach that would have allowed for the immobilization of surplus plutonium for eventual disposal in a geologic repository pursuant to the Nuclear Waste Policy Act, and use of MOX fuel in existing, domestic, commercial reactors, with subsequent disposal of the spent fuel in a geologic repository. This hybrid approach was selected to provide insurance against technical or institutional uncertainties that could arise from a single-technology approach for disposition. DOE selected this approach for the increased flexibility it provided by ensuring that plutonium disposition could still be initiated promptly should one of the approaches ultimately fail or be delayed. In selecting the hybrid approach, DOE established a means for expeditious plutonium disposition that provided the basis for an international cooperative effort to achieve reciprocal, irreversible plutonium disposition actions by Russia.

In addition, with regard to storage, DOE decided in the January 21, 1997 ROD to reduce the number of locations where the various forms of surplus plutonium were stored. To accomplish this, DOE decided to move surplus plutonium from RFETS as soon as possible, transporting pits to Pantex beginning in 1997. Non-pit plutonium materials would be separated and stabilized, and then transported to SRS. The January 21, 1997 ROD made transport of non-pit surplus plutonium materials from the RFETS to SRS contingent on DOE selecting SRS as the site for the immobilization facility in a subsequent ROD. After transport, the non-pit materials would be stored at SRS in a new facility, the Actinide Packaging and Storage Facility (APSF), pending disposition.

DOE further decided in the January 21, 1997 ROD to upgrade storage facilities in Zone 12 South at Pantex (to be completed by 2004) to store surplus pits already stored at Pantex and surplus pits from RFETS, pending disposition. Storage facilities in Zone 4 at Pantex would continue to be used for these pits prior to completion of the Zone 12 upgrade.

• To support early closure of RFETS, DOE subsequently issued an amended ROD for the Storage and Disposition PEIS (63 FR 43386, August 13, 1998) that revised some of these decisions. The amended ROD announced DOE's decision to accelerate shipment of all non-pit surplus plutonium from RFETS to SRS beginning in 2000, provided, again, that SRS was selected as the immobilization site. To accommodate the early receipt and storage of RFETS surplus plutonium (i.e., before completion of the APSF), DOE decided to undertake modifications to Building 105–K in the K-Area at SRS (also known as the K-Area Materials Storage [KAMS] facility). Before issuing the amended ROD, DOE prepared a Supplement Analysis (SA) pursuant to DOE procedures implementing the National Environmental Policy Act (10 CFR 1021.314), Supplement Analysis for Storing Plutonium in the Actinide Packaging and Storage Facility and Building 105–K at the Savannah River Site, (DOE/EIS–0229–SA1). On the basis of that SA, DOE concluded that storage in KAMS would not result in a substantial change in environmental concerns compared to storage in APSF.

• In the ROD for the SPD EIS (65 FR 1608, January 11, 2000), DOE decided to implement the hybrid approach for the disposition of up to 50 t of surplus plutonium (by fabricating up to 33 t into MOX fuel and immobilizing approximately 17 t), as described in the Preferred Alternative in the SPD EIS. SRS was selected as the location for all three disposition facilities: A pit disassembly and conversion facility (pit conversion facility), a plutonium immobilization facility, and a MOX facility.

• In an Amended ROD (66 FR 7888, January 26, 2001) for the EIS on Interim Management of Nuclear Materials (October 1995, DOE/EIS–0220), DOE canceled construction of the APSF because of cost growth and resource limitations. It was decided to use existing facilities for storing surplus plutonium at SRS.

[1] To accommodate the potential declaration of additional surplus materials in the future.

[2] Weapons-usable plutonium is plutonium in forms (*e.g.,* metals or oxides) that can be readily converted for use in nuclear weapons. Weapons-grade, fuel-grade and power reactor-grade plutonium are all weapons-usable.

[3] Weapons-grade plutonium is plutonium with an isotopic ratio of plutonium 240 to plutonium 239 of no more than 0.10.

II. Need To Change Surplus Plutonium Disposition Program

A. Immobilization

The initial Storage and Disposition PEIS ROD noted that ''the timing and extent to which either or both of these disposition approaches (immobilization or MOX) are ultimately deployed will depend upon the results of future technology development and demonstrations, follow-on (tiered) site-specific environmental review, contract negotiations, and detailed cost reviews, as well as nonproliferation considerations, and agreements with Russia and other nations.'' In 2001, the schedule for design, construction and operation of the plutonium immobilization facility was delayed indefinitely due to budgetary constraints. DOE/NNSA is now canceling the immobilization program, including the immobilization facility.

DOE/NNSA has evaluated its ability to continue implementing two disposition approaches and has determined that in order to make progress with available funds, only one approach can be supported. Russia does not consider immobilization alone to be an acceptable approach because immobilization, unlike the irradiation of MOX fuel, fails to degrade the isotopic composition of the plutonium. Russia has contended that the United States could easily obtain plutonium by removing it from the immobilized waste form in the event of a desire to reuse the plutonium for nuclear weapons. Because selection of an immobilization-only approach would lead to loss of Russian interest in and commitment to surplus plutonium disposition, DOE is of the view that if only one disposition approach is to be pursued, the MOX approach rather than the immobilization approach is the preferable one. Accordingly, it is canceling the immobilization portion of the dual disposition strategies announced in previous RODs.

B. Consolidated Long-Term Storage of Plutonium at SRS

Canceling the U.S. immobilization program has caused DOE/NNSA to reevaluate the long-term storage needs of the DOE nuclear complex. Much of the non-pit surplus plutonium currently stored at various sites in the complex was originally destined for immobilization. DOE/NNSA is examining alternative disposition paths for this material, including use as MOX fuel (*see* II.D, below). In the meantime, however, DOE needs to move forward with consolidated storage of some of this material, which serves independent objectives. In particular, DOE must consolidate the plutonium in order to close and clean up facilities and sites in the complex. In the case of RFETS, the schedule for site closure and cleanup is governed by an agreement between DOE and state regulators. Shipments from RFETS must begin soon in order to maintain that schedule. While the material is being safely and securely stored at all locations, consolidated storage of this material as RFETS is moving toward closure would afford DOE the opportunity to further improve the security of the material and at the same time achieve cost savings.

Long-term storage of surplus plutonium and the ultimate disposition of that plutonium are separate actions, and these actions were addressed separately in the Storage and Disposition PEIS. Alternatives for accomplishing each action were analyzed. While previous RODs that were issued based on that PEIS combined these two actions, such combination was not required to implement either decision, and indeed served no significant programmatic objective. The Storage and Disposition PEIS analyzed long-term storage at each of four sites: The Hanford Reservation (Hanford), the Idaho National Engineering Laboratory (now the Idaho National Engineering and Environmental Laboratory [INEEL]), Pantex and SRS. In this amended ROD, DOE/NNSA is modifying the earlier RODs to select the option of long-term storage of non-pit plutonium at SRS on its own merits.

DOE has reviewed the Storage and Disposition PEIS and related Supplement Analyses and has determined that the analyses remain valid for the decisions announced herein.

This decision affects only the non-pit surplus plutonium located at RFETS. This amended ROD does not affect the decision made in the January 21, 1997 ROD for the Storage and Disposition PEIS to continue current storage of non-pit surplus plutonium at Hanford, INEEL and LANL.

1. Shipment of RFETS Material

Shipments of surplus plutonium materials to SRS in support of the RFETS closure schedule are addressed in existing NEPA documents. In addition to the analysis contained in the Storage and Disposition PEIS, the accelerated shipments of surplus plutonium materials from RFETS to SRS were analyzed in the 1998 SA described above (DOE/EIS–0229–SA1) and were reflected in the transportation analyses presented in the SPD EIS. Both the January 17, 1997 initial ROD and the August 13, 1998 amended ROD for the Storage and Disposition PEIS conditioned shipment of plutonium from RFETS to SRS for storage on selection of SRS as the site for the immobilization facility. Cancellation of the immobilization facility and selection of the consolidated long-term storage alternative in this amended ROD removes the basis for that contingency. DOE will notify the Congress and consult with the Governor of South Carolina before shipping plutonium from RFETS to SRS, in accordance with The National Defense Authorization Act for Fiscal Year 2002.

2. Long-Term Storage of Surplus Plutonium in the KAMS Facility at SRS

DOE/NNSA decided (63 FR 43386, August 13, 1998) to store surplus plutonium from RFETS at the KAMS facility while the APSF was being constructed. However, the storage of surplus plutonium in the KAMS facility could extend beyond the 10-year period estimated in the 1998 Supplement Analysis discussed above (DOE/EIS–0229–SA1). Therefore, DOE prepared another SA, Supplement Analysis for Storage of Surplus Plutonium Materials in the K-Area Material Storage Facility at the Savannah River Site, February 2002 (DOE/EIS–0229–SA2), which evaluated the potential for storage beyond 10 years at the KAMS facility. That SA concluded that potential impacts from the continued storage of surplus plutonium in the KAMS facility at SRS for this additional period are not substantially different from those addressed in the original analysis of storage in APSF contained in the Storage and Disposition PEIS. Therefore, DOE/NNSA is deciding to use the KAMS facility to store the plutonium transferred from RFETS.

C. Storage of Surplus Plutonium at Pantex

DOE/NNSA now plans to continue storing surplus pits in Zone 4 at Pantex, as opposed to transferring the pits to an upgraded facility in Zone 12 by 2004 as announced in the Storage and Disposition PEIS ROD. Surplus pits would be maintained in storage in Zone 4 pending disposition at SRS. DOE had intended to relocate all pits in storage at Pantex to upgraded facilities in Zone 12 and eventually to discontinue use of Zone 4. However, further analysis of mission needs determined that Zone 4 would likely be needed well into the future for weapons dismantlement activities and to comply with possible treaty requirements. That being the case, cost savings initially postulated from

the closure of Zone 4 would not be achieved. This realization, coupled with the availability of adequate storage space in Zone 4 to accommodate both surplus pits and weapons dismantlement activities, as well as concerns expressed by the Defense Nuclear Facilities Safety Board over storing both national security and surplus pits in Zone 12, led DOE to reexamine whether it would be more appropriate to continue storing surplus pits in Zone 4.

The storage of surplus pits in Zone 4 at Pantex is ongoing and consistent with the current storage practices and was evaluated as part of the No Action Alternative in the Storage and Disposition PEIS. The SPD EIS ROD also acknowledged that DOE was considering leaving the surplus pits in Zone 4, pending disposition at SRS.

D. MOX Fuel Program

Section 3155(c) of The National Defense Authorization Act for Fiscal Year 2002 required the Department to submit to Congress by February 1, 2002, a plan for disposal of the surplus plutonium currently located at SRS or to be shipped to SRS in the future. Section 3155(d) also required the Department to submit a plan for a disposition path for plutonium that would otherwise have been disposed of at an immobilization facility or at a MOX facility, if the Department determines not to proceed with either facility. In response to this Congressional mandate, DOE/NNSA, on February 15, 2002 (and supplemented by letter on March 5, 2002) submitted a document entitled Report to Congress: Disposition of Surplus Defense Plutonium at Savannah River Site. That report states that DOE/NNSA's current disposition strategy involves a MOX-only approach, under which DOE/NNSA would dispose of up to 34 t of surplus plutonium by converting it to MOX fuel and irradiating it in commercial power reactors. Implementation of this strategy is key to the successful completion of the agreement between the U.S. and the Russian Federation discussed in Section I.A., above. DOE is currently analyzing the changes to the MOX fuel portion of the surplus plutonium disposition program needed to carry out that strategy, including analysis conducted pursuant to NEPA. No final decisions regarding the MOX portion of the surplus plutonium disposition program will be made until DOE/NNSA has completed this analysis.

Amended Decisions

DOE/NNSA is modifying its decisions on storage and disposition of surplus plutonium as follows:

- Cancel the immobilization portion of DOE/NNSA's disposition strategy.
- Select the alternative of consolidated long-term storage at SRS of non-pit surplus plutonium now stored separately at RFETS and at SRS.
- Utilize the KAMS facility for consolidated long-term storage of surplus plutonium.
- Continue storage of surplus pits in Zone 4 at Pantex in lieu of storage in Zone 12.

Issued in Washington, DC, April 15, 2002.

John A. Gordon,

Administrator, National Nuclear Security Administration.

[FR Doc. 02–9658 Filed 4–18–02; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6628–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa*

Weekly receipt of Environmental Impact Statements

Filed April 08, 2002 Through April 12, 2002

Pursuant to 40 CFR 1506.9.

EIS No. 020143, Final EIS, FHW, MI, M–24 Reconstruction Project, From One Mile North of the Oakland County Line to I–69, Funding, Lapeer County, MI, Wait Period Ends: May 20, 2002, Contact: James A. Kirshensteiner (517) 702–1835.

EIS No. 020144, Draft EIS, FHW, MN, Trunk Highway (TH) 53 Project, Transportation Improvements, from 1.2 km (¾ mile) South of St. Louis County Road 307 to the South City Limits of Cook, NPDES Permit, COE Section 10 and 404 Permits, St. Louis County, MN, Comment Period Ends: June 03, 2002, Contact: Cheryl Martin (651) 291–6120.

EIS No. 020145, Final EIS, USA, CO, Pueblo Chemical Depot, Destruction of Chemical Munitions, Design, Construction, Operation and Closure of a Facility, Pueblo County, CO, Wait Period Ends: May 20, 2002, Contact: Penny Robitaille (410) 436–4178.

Amended Notices

EIS No. 020124, Draft EIS, FRC, CT, NY, Islander East Pipeline Project, Interstate Natural Gas Pipeline Facilities Construction and Operation to provide 285,000 dekatherms per day (Dth/d) of Natural Gas to Energy Markets in Connecticut, Long Island and New York, New Haven, CT and Suffolk County, NY, Comment Period Ends: May 20, 2002, Contact: Margalie R. Salas (202) 208–2156. Revision of FR notice published on 04/05/2002: Title Correction. 285,009 dekatherms per day (Dth/d) Changed to 285,000 dekatherms per day (Dth/d).

EIS No. 020125, Final EIS, FTA, MN, Northstar Transportation Corridor Improvement Project, Downtown Minneapolis to the St. Cloud Area along Trunk Highway 10/47 and the Burlington Northern Santa Fe Railroad Transcontinental Route connecting Hiawatha Light Rail Transit Line at a Multi-Modal Station, Minneapolis/St Paul International Airport and Mall of America, Bloomington, MN, Wait Period Ends: May 06, 2002, Contact: Joel Ettinger (312) 353–2865. Revision of FR Notice Published on 04/12/2002: Correction to County from Joseph to Josephine County Report on 04/12/2002.

EIS No. 020129, Draft EIS, BLM, OR, Kelsey Whisky Landscape Management Planning Area, Implementation, Associated Medford District Resource Management Plan Amendments, Josephine and Jackson Counties, OR, Comment Period Ends: July 12, 2002, Contact: Sherwood Tubman (541) 618–2399. Revision of FR Notice Published on 03/29/2002: CEQ Comment Period Ending 04/29/2002 has been Corrected to 05/13/2002.

Dated: April 16, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–9656 Filed 4–18–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6628–3]

North Slope, Alaska: Preparation of an Environmental Impact Statement (EIS) on a Proposal To Develop Oil and Gas Reserves in or Near the Point Thomson Unit, Potentially Including Designation of Ocean Dredged Material Disposal Site(s)

AGENCY: Environmental Protection Agency (EPA) Region 10.

ACTION: Notice of intent.

FOR FURTHER INFORMATION AND TO BE PLACED ON THE PROJECT MAILING LIST CONTACT: John Malek, Sediment Management and Aquatic Resources Specialist, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, ECO–083, Seattle, Washington, 98101, Phone (206) 553–1286, E-mail *malek.john@epa.gov* or Theodore L. Rockwell, Jr., Environmental Scientist, U.S. Environmental Protection Agency, Alaska Operations Office, 222 W Seventh Avenue, Box 19, Anchorage, AK 99513–7588, Phone (907) 271–3689, E-mail *rockwell.theodore@epa.gov*.

SUPPLEMENTARY INFORMATION: The ExxonMobil Production Company, a division of Exxon Mobil Corporation (ExxonMobil) and its partners, the Point Thomson Unit Owners, are proposing to develop oil and gas reserves in or near the Point Thomson Unit located approximately 46 miles east of Prudhoe Bay on the Beaufort Sea coast, in the State of Alaska, with the goal of production and transport of sales-quality gas condensate to the Trans-Alaska Pipeline System (TAPS). The Point Thomson Gas Cycling Project involves the cycling of gas in the high pressure Thomson Sands reservoir to recover liquid gas condensate. The axis of the Thomson Sands reservoir is roughly aligned with the lagoon system located immediately south of Flaxman Island and extends offshore to the northwest. ExxonMobil and its partners intend to develop this reservoir from onshore locations using extended reach drilling technology.

The proposed development may involve:

—Construction of ice roads;
—Development of gravel mine;
—Construction of gravel roads, pads, airstrip;
—Construction of a gravel fill dock extending into the Beaufort Sea;
—Dredging a channel to the dock from the open sea;
—Disposal, offshore, of the dredged material (ocean dumping);
—Construction of a pipeline system and connection to existing pipelines in other units;
—Construction of production facilities;
—Drilling production wells;
—Drilling underground waste injection wells;
—Operation of production facilities; and
—Abandonment following extraction of recoverable reserves.

Alternatives will be identified and evaluated throughout the Scoping and EIS process with a preferred alternative identified in the Draft EIS.

EPA has determined that the proposed project will or may require review, concurrence, permits or authorizations from EPA which has regulatory responsibility pursuant to a number of laws including the Marine Protection, Research, and Sanctuaries Act (MPRSA), National Environmental Policy Act (NEPA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), and Clean Air Act (CAA). Other permits and/or authorizations may be required from the U.S. Army Corps of Engineers (Corps), the National Marine Fisheries Service (NMFS), the Fish and Wildlife Service (FWS), State agencies, and the North Slope Borough.

Based upon our review of the proposed project and our understanding of both the regulatory needs for this and associated projects, EPA has determined that to most efficiently meet our NEPA compliance responsibilities, it is prudent to now begin an Environmental Impact Statement (EIS). EPA will be the lead agency for this effort and will invite all interested Federal agencies, tribal governments, State agencies, and the North Slope Borough to participate in the preparation of the EIS as they deem necessary for their needs. Letters to that effect already have been sent to the Federal agencies and the following have stated their intent to participate as a cooperating agency: U.S Army Corps of Engineers, Alaska District; U. S. Fish and Wildlife Service. State agencies, the North Slope Borough, Borough residents, and the general public will be contacted during the scoping process.

EPA anticipates the preparation of this EIS will be carried forward via a third-party contract process in which ExxonMobil works with EPA to acquire an independent third-party contractor to collect information, prepare the documents for Agency review, revision and acceptance.

Scoping: EPA expects to hold scoping meetings in Anchorage, Barrow, Nuiqsut, Kaktovik, Arctic Village, and Fairbanks. Further information about these meetings will be published locally or can be obtained by contacting the EPA as described above. A description of the project will be circulated prior to these meetings to help the public focus their scoping comments.

The draft EIS is tentatively scheduled for release to the public and agencies for review in mid-2003. The EPA plans to conduct a series of public meetings hearings after release of the draft EIS. Actual times and locations for the public hearings will be announced by advance public notice and local publications following release of the draft EIS.

L. John Iani,

Regional Administrator, Region 10.

Dated: April 15, 2002.

Anne Norton Miller,

Director, Office of Federal Activities.

[FR Doc. 02–9657 Filed 4–18–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7173–4]

RIN 2040–AB75

Meeting of the National Drinking Water Advisory Council; Notice of Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Under Section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S3300f *et seq.*), will be held on May 8, 2002, from 9 a.m. until 5 p.m. and May 9, 2002, from 8:30 a.m. until 12:30 p.m., Eastern Standard Time, in Room 1133, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20460. The Council will hear presentations and have discussions on topics important to the Environmental Protection Agency's national drinking water program, including: The States' perspectives on drinking water program implementation; the Agency's approach to developing future contaminant candidate lists; progress and key issues regarding water infrastructure protection activities; updates on key regulatory activities; and arsenic rule implementation, including exemptions, unreasonable risk to health, and point-of-use devices.

The Council encourages the hearing of outside statements and will allocate one hour for this purpose. Oral statements will be limited to five minutes, and it is preferred that only one person present the statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 564–3791 before April 25, 2002.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting

will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

DATES: The meetings will be held on May 8th and May 9th in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Members of the public that would like to attend the meeting, present an oral statement, or submit a written statement, should contact Brenda Johnson, Designated Federal Officer, National Drinking Water Advisory Council, U.S. EPA, Office of Ground Water and Drinking Water (4601), 401 M Street SW., Washington, DC 20460. The telephone number is Area Code (202) 564–3791 or E-Mail *johnson.brendap@epa.gov*

Dated: April 15, 2002.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 02–9652 Filed 4–18–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 98–67; DA 02–756]

Consumer and Governmental Affairs Bureau Announces Agenda for the May 3, 2002, Rescheduled Public Forum and Technology Expo on Telecommunications Relay Service; Ex Parte Comments Invited

AGENCY: Federal Communications Commission.

ACTION: Notice; announcement of meeting.

SUMMARY: The Consumer and Governmental Affairs Bureau (CGB) of the Federal Communications Commission invites interested persons to a Public Forum and Technology Expo on Telecommunications Relay Service (TRS). The purpose of this Forum and Expo is for TRS administrators, consumers, providers, and Commission staff to share information on, among other things, current State TRS, renewal of State TRS certifications and new TRS technologies.

DATES: The Public Forum and Technology Expo on TRS will be held on Friday, May 3, 2002, from 10 a.m. to 3 p.m. in the Commission Meeting Room, (Room TW–C305) and adjacent rooms, at 445 12th St., SW., Washington, DC 20554. *Ex parte* comments are due by May 10, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For more information about the TRS Forum or Technology Expo, including how to exhibit at the Expo, please contact Suzanne Perrin at (202) 418–2874 (voice), (202) 418–1085 (TTY), or *sperrin@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Forum will offer an opportunity for everyone, including consumers and industry representatives, to exchange ideas with the Commission and TRS administrators and to have their comments become part of the formal public record in CC Docket 98–67. In conjunction with the Forum, the CGB will hold a Technology Expo to showcase TRS and other accessibility technologies.

The Forum agenda is tentatively as follows:

9:30 a.m.–3:30 p.m. Technology Expo
10:00 a.m.–10:30 a.m. Opening Remarks
10:30 a.m.–11:15 a.m. Status of TRS and Current Issues
11:15 a.m.–12 a.m. Renewal of State TRS Certifications
12 p.m.–1 p.m. Expo Demonstrations (Lunch Break)
1 p.m.–2:30 p.m. Panel on TRS Technologies for the 21st Century
2:30 p.m.–3 p.m. Open Microphone
3 p.m.–3:30 p.m. Expo Demonstrations

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file *Ex parte* comments on or before May 10, 2002. *Ex parte* comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998. *Ex parte* comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Those unable to attend the Forum can watch and listen to it live over the Internet with open captioning in Real Audio/Real Video format at: <*http://www.fcc.gov/realaudio/*>. Individuals can send their views and/or questions before or during the Forum to: *TRSFORUM@fcc.gov* (e-mail). The e-mails should have the heading, ''*Ex Parte* Submission in CC Docket 98–67.'' These views will be included in the record of the TRS proceeding. A transcript of the forum will be available 10 business days after the event on the FCC's Internet site at the Consumer and Governmental Affairs Bureau web page at <*http://www.fcc.gov/cgb*>. Transcripts may also be obtained from the FCC's duplicating contractor, Qualex International, 445 12th St., SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* Audio and video tapes of the forum may be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, by calling Infocus at (703) 834–0100 or by faxing Infocus at (703) 834–0111. Sign language interpretation, open captioning and

assistive listening devices will be provided. Meeting agenda and handout materials will be provided in accessible formats. The meeting site is fully accessible to people using wheelchairs or other mobility aids. Copies of the transcript in other alternative formats (computer diskette, large print, and Braille) are available to persons with disabilities by contacting Brian Millin (202) 418–7426 voice, (202) 418–7365 TTY, or *bmillin@fcc.gov.*

Send requests for other reasonable accommodations to *fcc504@fcc.gov,* or contact Helen Chang, Section 504 Officer, 202–418–0424, 202–418–0432 TTY, or *hchang@fcc.gov.*

Federal Communications Commission.

Martha Contee,

Chief, Consumer Affairs and Outreach Division.

[FR Doc. 02–9640 Filed 4–18–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. Simplified Federalwide Assurance and IRB Registration System—NEW—

Developed by the Office of Human Research Protections (OHRP), the new assurance and Institutional Review Board (IRB) registration system is designed to satisfy information collection requirements of Section 491 of the Public Health Services Act, the Common Rule for the Protection of Human Subjects (56 FR 28003) and HHS Regulations at 45 CFR Part 46. *Respondents:* Not-for Profit Institutions, For-Profits, State, Local or Tribal Governments, Federal Government; Burden Information for the IRB Registration—*Total Annual Responses:* 667; *Average Burden per Response:* one hour; *Annual Burden:* 667 hours. Burden Information for the assurance process is incorporated under OMB control number 0990–0260, which the information collection request for all reporting and recordkeeping requirements contained in the common rule.

OMB Desk Officer: Allison Herron Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Written comments should be received within 30 days of this notice.

Dated: April 11, 2002.

Kerry Weems,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 02–9535 Filed 4–18–02; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Joao Carlos deSales, San Francisco Department of Public Health: Based on the report of an investigation conducted by the San Francisco Department of Public Health (SFDPH) and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Joao Carlos deSales, former study counselor at SFDPH, engaged in scientific misconduct by falsifying data supported under National Institutes of Health subcontract SFP–N01–A1–35176–HMEISTERI–94 to SFDPH under National Institute of Allergy and Infectious Diseases (NIAID), NIH, contract 5–N01–AI35176–019, ''Domestic Master Contract for HIV Vaccine Efficacy Trials,'' awarded to ABT Associates, Inc.

Specifically, from April through September of 1999, Mr. deSales switched randomization assignments on four pairs of subjects and subsequently altered the research records to conceal his conduct. Mr. deSales' switching of the randomization assignments, if undetected, could have biased the study so as to invalidate the conclusions on the effectiveness of intensive counseling sessions on reducing the rate of new HIV infections.

Mr. deSales has entered into a Voluntary Exclusion Agreement in which he has voluntarily agreed for a period of three (3) years, beginning on April 4, 2002:

(1) to exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) that any institution that submits an application for PHS support for a research project on which Mr. deSales' participation is proposed or which uses him in any capacity on PHS supported research, or that submits a report of PHS-funded research in which Mr. deSales is involved, must concurrently submit a plan for supervision of his duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of his research contribution. A copy of the supervisory plan must also be submitted to ORI by the institution.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852. (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 02–9620 Filed 4–18–02; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Atsushi Handa, M.D., Ph.D., National Institutes of Health: Based on the report of an investigation conducted by the National Institutes of Health (NIH) and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Atsushi Handa, M.D., Ph.D., former visiting

fellow in the intramural program of the National Heart, Lung, and Blood Institute (NHLBI), NIH, engaged in scientific misconduct by falsifying and fabricating data published in two publications.

Specifically, PHS found that Dr. Handa:

(1) Fabricated or falsified the following data in a paper published in *J. Gen. Virol.* 81:2077–2084, 2000: (A) Data for the AAV–3 construct for days 2, 5, and 7 and data for the AAV–2 construct for days 5 and 7 in Table 1; (B) day 2 data in Table 2; and (C) Figure 4; and

(2) Falsified the following data in a paper published in *J. Gen. Virol.* 81:2461–2469, 2000: (A) Figure 3; and (B) data in Table 2; retracted at *J. Gen. Virol.* 82:2837, 2000.

These actions were serious because the purported findings on the GV virus C/hepatitis G and AAV–2 viruses could have had major impact in areas such as hepatitis research and gene therapy.

Dr. Handa has entered into a Voluntary Exclusion Agreement in which he has voluntarily agreed:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (*e.g.*, grants and cooperative agreements) of the United States Government as defined in 45 CFR part 76 (Debarment Regulations), for a period of five (5) years, beginning on April 4, 2002;

(2) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant, for a period of five (5) years, beginning on April 4, 2002; and

(3) To submit a letter of retraction to the editor of the Journal of General Virology identifying the missing data as well as the falsified or fabricated data in Figure 3A and Table 2 of the paper published in J. Gen. Virol. 81:2461–2469, 2000, within 30 days of the effective date of this Agreement. This retraction requirement will remain on the ALERT System until Dr. Handa sends, and ORI receives, a copy of the retraction letter that is consistent with the above language.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852. (301) 443–5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 02–9619 Filed 4–18–02; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality; Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act as amended (5 U.S.C., appendix 2), the Agency for Healthcare Research and Quality (AHRQ) announces meetings of scientific peer review groups. The subcommittees listed below are part of the Agency's Health Services Research Initial Review Group Committee.

The subcommittee meetings will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications are to be reviewed and discussed at these meetings. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of Subcommittee:* Health Care Research Training.
   Date: May 16–17, 2002 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).
   Place: AHRQ, 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852.
2. *Name of Subcommittee:* Health Care Technology and Decision Sciences.
   Date: June 6–7, 2002 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).
   Place: AHRQ, 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852.
3. *Name of Subcommittee:* Health Research Dissemination and Implementation.
   Date: June 17–18, 2002 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).
   Place: AHRQ, 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852.
4. *Name of Subcommittee:* Health Care Quality and Effectiveness Research.
   Date: June 20–21, 2002 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).
   Place: AHRQ, 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852.
5. *Name of Subcommittee:* Health Systems Research.
   Date: June 26–27, 2002 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).
   Place: AHRQ, 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of the meetings should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1846.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: April 12, 2002.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 02–9605 Filed 4–18–02; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Community-Based Dental Partnership Program Grant Announcement

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces the availability of fiscal year (FY) 2002 funds to be awarded under the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act Community-Based Dental Partnership Program for grants that support partnerships between dental education programs and community-based dental providers, to provide oral health care to low income, unserved patients with HIV disease. Grants will be awarded for a 3-year period.

Program Purpose

The goals of the Community-Based Dental Partnership Program are to increase access to oral health care for low-income patients with HIV in areas that remain unserved and to increase the number of dental providers capable of managing the oral health needs of patients with HIV, through community-based service-learning experiences. Eligible applicants must work collaboratively with community-based dental providers (such as community-based or faith-based organizations or private practice dental providers that currently provide or plan to provide oral health services) to address unmet oral health needs of unserved populations with HIV. The documentation of unmet HIV oral health needs or unserved HIV positive populations will be based upon data submitted within the application

which includes Statement of Unmet Need, local and other relevant epidemiological data, availability of current HIV health care including oral health services, and a description of proposed population and community to be served.

Program Requirements

The dental education program will be the official grantee of record, but applications must reflect joint efforts and represent collaboration among all partners. As part of the partnership program, applicants will be required to:

(1) document formal written partnership agreements;

(2) provide oral health care through student and resident rotations in community-based dental facilities;

(3) enable the participation of community-based dental providers as adjunct faculty;

(4) provide supervision and training in a clinically-based educational experience for predoctoral students, postdoctoral students and dental residents, and dental hygiene students; and

(5) provide preparatory training to enable students and community-based faculty to provide competent oral health care for patients with HIV.

Eligible Applicants

Accredited dental schools, postdoctoral dental education programs, and dental hygiene education programs in the United States, including Puerto Rico are eligible to participate in the program.

Funding Priorities and/or Preferences

In awarding these grants, preference will be given to applicant partnerships in both rural and urban areas that are currently unserved, especially communities without dental education programs. Eligible applicants are encouraged to collaborate with community-based and/or faith-based organizations that currently provide or plan to provide oral health services.

Authorizing Legislation

The Community-Based Dental Partnership Program is authorized by the Public Health Service (PHS) Act, as amended by Public Law 106–345, the Ryan White CARE Act and Amendments of 2000 (42 U.S. Code 300–71).

Availability of Funds

Approximately $3.5 million is available to fund this initiative. HRSA anticipates funding up to 20 dental education programs for 3 years. The budget and project periods for approved and funded projects will begin on or about September 1, 2002. Continuation awards within the 3-year project period will be made on the basis of progress toward achieving program goals, and the availability of funds.

Application Deadline

Applications are to be submitted via mail to the HRSA Grants Application Center (GAC) on or before close of business June 14, 2002. Applications will meet the deadline if they are either (1) received on or before the deadline date or (2) postmarked on or before the deadline date, and received in time for submission to the objective review panel. A legible dated receipt from a commercial carrier or U.S. Postal Service will be accepted instead of a postmark. Private metered postmarks will not be accepted as proof of timely mailing.

Obtaining Application Guidance and Kit

You may access the program guidance alone on HRSA's Web site at *www.hrsa.hab.gov/grants.html.*

The official grant application kit and program guidance for this announcement may be obtained from the HRSA Grants Application Center, 901 Russell Avenue, Suite 450, Gaithersburg, MD 20879, Attn: CFDA 93.924; telephone 1–877–477–2234; e-mail address *HRSA.GAC@hrsa.gov.*

FOR FURTHER INFORMATION CONTACT: Additional information related to the program may be requested by contacting the Program Development Branch, Division of Community-Based Programs, HIV/AIDS Bureau, Health Resources and Services Administration; telephone (301) 443–2177.

Dated: April 12, 2002.

Elizabeth M. Duke,

Administrator.

[FR Doc. 02–9617 Filed 4–18–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Maternal and Child Health Federal Set-Aside Program; Special Projects of Regional and National Significance; Integrated Comprehensive Women's Health Services in State MCH Programs Grant Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that approximately $600,000 in fiscal year (FY) 2002 funds is available to fund up to 6 grants to establish a locus of responsibility for women's health in State MCH Programs. The purpose of this grant program (CFDA Number 93.110AK) is to improve the coordination of women's health services at the State level through the development of linkages and partnerships among community-based organizations, academic institutions, federal, state, and local agencies. Infrastructure development is essential to overcome fragmentation in the delivery of health care services to women, to ensure that they have access to comprehensive, coordinated care that includes, in addition to reproductive health services, preventive services, education and counseling, referrals, and follow up. Eligibility is open to any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b). Awards will be made under the program authority of section 501(a)(2) of the Social Security Act, the Maternal and Child Health (MCH) Federal Set-Aside Program (42 USC 701(a)(2)). Funds for these awards were appropriated under Public Law 107–116. Projects will be approved for a three-year period, with awards averaging about $100,000 for the first year. Funding after the initial year is contingent upon the availability of funds.

DATES: Applicants are expected to notify MCHB's Division of Perinatal Systems and Women's Health of their intent to apply by May 10, 2002. The deadline for receipt of applications is June 17, 2002. Applications will be considered ''on time'' if they are complete and either received on or before the deadline date or postmarked on or before the deadline date. The projected award date is September 1, 2002.

ADDRESSES: To receive a complete application kit, applicants may telephone the HRSA Grants Application Center at 1–877–477–2123 (1–877–HRSA–123) beginning April 26, 2002, or register on-line at: *http://www.hrsa.gov/,* or by accessing *http://www.hrsa.gov/_order3.htm* directly. This program uses the standard form PHS 5161–1 (rev. 7/00) for applications (approved under OMB No. 0920–0428). Applicants must use the appropriate Catalog for Federal Domestic Assistance (CFDA) number when requesting application materials. The CFDA is a Government-wide compendium of enumerated Federal programs, projects, services, and activities that provide assistance. The

CFDA Number for the Integrated Comprehensive Women's Health Services in State MCH Programs Grant Program is 93.110AK. All applications should be mailed or delivered to: Grants Management Officer (MCHB), HRSA Grants Application Center, 901 Russell Avenue, Suite 450, Gaithersburg, Maryland, 20879, telephone: 1–877–HRSA–123 (1–877–477–2123), e-mail: *hrsagac@hrsa.gov.*

This application guidance and the required forms for the Integrated Comprehensive Women's Health Services in State MCH Programs Grant Program may be downloaded in either WordPerfect 6.1 or Adobe Acrobat format (.pdf) from the MCHB home page at *http://www.mchb.hrsa.gov/.* Please contact Joni Johns at 301–443–2088 or *jjohns@hrsa.gov* if you need technical assistance in accessing the MCHB home page via the Internet.

FOR FURTHER INFORMATION CONTACT: Lisa R. King, M.A., 301–443–9739, e-mail: *lking@hrsa.gov,* (for questions specific to project activities of the program, program objectives, or the Letter of Intent described above); and Curtis Colston, 301–443–3438, e-mail: *ccolston@hrsa.gov,* (for grants policy, budgetary, and business questions).

SUPPLEMENTARY INFORMATION

Integrated Comprehensive Women's Health Services in State MCH Programs—Background and Objectives

Women's care is fragmented in its delivery, particularly with regard to the separation of reproductive and non-reproductive services. Women may have access to reproductive health care but not to comprehensive, coordinated care that includes preventive services, education and counseling, appropriate referrals and follow-up.

Fragmentation and lack of access to comprehensive, coordinated care is an even greater problem for minority and underserved women, many of whom do not have health insurance. In fact, women without health insurance are less likely to receive preventive care services than insured women. Yet, these women suffer disproportionately from disparities in health status, and have the greatest need for such services.

Adopting a broader approach to primary care for women could also be an efficient means of improving both women's health status and birth outcomes. Research suggests that infant and child health and development are strongly affected by women's preconceptional health status and health behaviors, and by women's general physical and psychological well-being in the immediate postpartum period and beyond. This broader approach to women's health also offers the potential to expand knowledge and practice in many areas of health promotion and disease prevention for women, children, and families.

Many women's health experts have long advocated an expanded concept of women's health beyond reproductive health issues. Under the expanded definition being proposed, women's health would include both preservation of wellness and prevention of illness. This broader women's health framework (1) includes the screening, diagnosis and management of conditions that affect women exclusively, disproportionately, or manifest themselves differently in women, such as breast and cervical cancer; (2) addresses risky behaviors and environments that threaten the well-being of women such as injury and violence, and alcohol or substance abuse; and (3) addresses factors that affect women during their reproductive years and beyond.

State Title V programs are among the logical partners to improve systems of care for women. In many States, Title V programs have already begun to provide a variety of services for women beyond pregnancy-related care, including family planning services, preconception care, breast and cervical cancer screening, screening and treatment of sexually transmitted diseases and smoking cessation programs, but more needs to be done. Lifestyle programs such as nutrition, exercise, substance abuse prevention, domestic violence programs, and screening and treatment of depression are included in some Title V programs, but are not as well developed. Other areas in need of development include rape prevention/crisis services, developing a women's health agenda, women's preventive health services, and domestic violence. Encouragingly, Title V programs have begun to demonstrate recognition of the gaps in services and are already seeking ways to expand the service mix and provide continuity of care for women.

Infrastructure development is essential to the creation of a health care system that has the capacity to provide more comprehensive, gender-specific and culturally-competent health care for women, taking into account their different languages, cultures, and the complex and interrelated medical and psychosocial issues that affect them. Development of effective linkages should result in reduced fragmentation, enhanced coordination and cooperation across women's health programs, ensure access, and provide support for infrastructure development in State MCH programs.

Authorization

Awards will be made under the program authority of section 501(a)(2) of the Social Security Act, the Maternal and Child Health (MCH) Federal Set-Aside Program (42 U.S.C. 701(a)((2)).

Purpose

The purpose of this program is to expand capacity in State MCH programs to improve women's health by establishing a locus of responsibility (or focal point) for the coordination of women's health through the development of linkages and partnership building with community-based organizations, academic institutions, federal, state, and local agencies. This focal point will also identify gaps and create an infrastructure for women's health services. Linkages will be created across programs, *e.g.,* women's health, family planning, breast and cervical cancer, domestic violence/sexual assault, mental health, chronic disease, oral health, perinatal health, etc. Potential partners include organizations such as AMCHP, Association of Women's Health Obstetric and Neonatal Nurses (AWHONN), National Centers of Excellence in Women's Health, provider organizations (*e.g.,* American College of Obstetricians and Gynecologists, American College of Nurse Midwives, Nurse Practitioners in Women's Health), private organizations, Federal agencies (*e.g.,* HHS Office on Women's Health, Bureau of Primary Health Care's Office of Minority and Women's Health), state and local agencies, and other MCH provider organizations dedicated to promoting a women's health agenda and advancing the field of women's health through the delivery of coordinated services and systems, particularly in relation to health promotion/risk reduction behaviors.

The resulting integrated and coordinated system of care will facilitate the provision of comprehensive and continuous health services to women, particularly those who have limited access to preventive health services. The intent is to improve the overall health of women, children and families.

Eligibility

Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b) is eligible to apply. State and Territorial MCH Title V agencies, tribal health agencies or their designees are especially encouraged to apply. Under the President's initiative, faith-based

organizations that are otherwise eligible and believe they can contribute to HRSA's program objectives are urged to consider this initiative. There will be only one funded application per State.

Funding Level/Project Period

Approximately $600,000 is available to support the award of 6 grants averaging approximately $100,000 each in FY 2002, with a project period of up to three years. Funding beyond FY 2002 is contingent upon satisfactory performance, the availability of funds, and program priorities. The initial budget period is expected to be 12 months, with subsequent budget periods being 12 months each.

Review Criteria

In general, applications for this grant program will be reviewed on the basis of the extent to which they address the following criteria:

(1) The extent to which the project will contribute to the advancement of maternal and child health and/or improvement of the health of children with special health care needs;

(2) The extent to which the project is responsive to program objectives, requirements, priorities and/or review criteria for specific project categories, as published in program announcements or guidance materials;

(3) Clarity and appropriateness of the budget and coordinated budget narrative;

(4) The extent to which the project personnel are well qualified by training and/or experience for their roles in the project and the applicant organization has adequate facilities and personnel;

(5) Clarity and strength of the letters of support or collaboration, particularly from the State Title V agency; and

(6) The extent to which, insofar as practicable, the proposed activities, if well executed, are capable of attaining project objectives.

The final review criteria used to review and rank applications for the Integrated Comprehensive Women's Health Services in State MCH Programs grant program are included in the application kit. Applicants should pay strict attention to addressing these criteria, as they are the basis upon which their applications will be judged.

Paperwork Reduction Act

OMB approval for any data collection in connection with this cooperative agreement will be sought, as required under the Paperwork Reduction Act of 1995.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprized of proposed health services grant applications submitted by community-based non-governmental organizations within their jurisdictions.

Community-based non-governmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

Executive Order 12372

The MCH Federal Set-Aside program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

Dated: April 12, 2002.

Elizabeth M. Duke,

Administrator.

[FR Doc. 02–9618 Filed 4–18–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines (ACCV); Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June.

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: June 6, 2002; 9 a.m.–3 p.m.

Place: Audio Conference Call and Parklawn Building, Conference Rooms D & E, 5600 Fishers Lane, Rockville, Maryland 20857.

The full ACCV will meet on Thursday, June 6, from 9 a.m. to 3 p.m. The public can join the meeting in person at the address listed above or by audio conference call by dialing 1–888–889–1954 on June 6 and providing the following information:

Leader's Name: Thomas E. Balbier, Jr.

Password: ACCV.

The agenda items for June 6 will include, but not limited to: A presentation of recommendations from the ACCV Workgroup on Legislative Proposals, a presentation on the Institute of Medicine's Report entitled ''Possible Association Between Hepatitis B Vaccine and Neurological Disorders,'' and updates from the Division of Vaccine Injury Compensation, the Department of Justice, and the National Vaccine Program Office.

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 Parklawn Conference Room D & E on June 6. 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: April 10, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–9530 Filed 4–18–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

State Treatment and Needs Assessment Program Studies—New—Beginning in Fiscal Year 1999, SAMHSA's Center for Substance Abuse Treatment (CSAT), as part of its State Treatment Needs Assessment Program (STNAP), awards grants to States to conduct studies for the purpose of determining the need and demand for substance abuse treatment within each State. In order to receive funds from the Substance Abuse Prevention and Treatment Block Grant, States must submit in their annual block grant applications an assessment of service needs Statewide, at the sub-state level, and for specified population groups (as required by Section 1929 of the Public Health Service Act).

Most States receiving these grants will conduct an adult telephone household survey to collect information on needed treatment for substance abuse/dependence. In addition, many States will conduct a variety of more focused studies which will collect data on treatment need in special populations, including adolescents, Temporary Assistance for Needy Families (TANF) recipients, transients, arrestees and other criminal justice populations. There are also two separate, yet related, criminal justice studies that focus on the need for treatment resources among arresters (implemented in conjunction with the National Institute of Justice Arrestee Drug Abuse Monitoring (ADAM) program) and among recently incarcerated inmates. States are required to use core protocols comprised of basic study design, data collection methods, and a core set of questions for these data collections.

In addition, there are three protocols that do not require primary data collection. All States are required to implement the Administrative, Client-Level Treatment protocol, which involves use of a unique client identifier to enable linking substance abuse treatment client admissions and discharges and to identify multiple episodes for the same client. Under Section 1935 of the PHS Act, once a State receives funding under the STNAP program, it must continue to collect, analyze and report these client data to SAMHSA after grant funding ends. There are two other protocols that employ analytic techniques for existing secondary data. These are the Database Linkage Core Protocol and the Social Indicators Core Protocol.

The estimated annualized burden for the State needs assessment studies over the next three years is presented below.

Study	Number of respondents	Number of responses/respondent	Total responses	Hours per response	Total hour burden
Administrative Client—Level State data file [1]	14	1	14	6	84
Database Linkage—State data file [2]	(6)	1	6	6	36
Social Indicators—State data file [3]	(4)	1	4	6	24
STNAP Survey	13,200	1	13,200	0.30	3,960
STNAP Survey State data file [4]	(6)	1	6	6	36
ADAM–CSAT Partner	4,350	1	4,350	0.51	2,240
ADAM–CSAT Partner State data file [5]	(6)	1	6	6	36
Inmate Population (2 States)	900	1	900	0.50	450
Inmate Population State data file [6]	(2)	1	2	6	12
Annualized burden	18,464		18,488		6,878

[1] Based on 7 new cooperative agreements per year. Each State must submit a file annually thereafter. 7+14+21=42 or an average 14 data files per year.

[2] Based on 6 States per year proposing a database linkage study and submitting a data file at the end of the study. The studies are to be conducted once in the three year cooperative agreement.

[3] Based on 4 States per year proposing a social indicator study and submitting a data file at the end of the study. The studies are to be conducted once in the three year cooperative agreement.

[4] Based on 6 States per year proposing a STNAP Survey study and submitting a data file at the end of the study. The studies are to be conducted once in the three year cooperative agreement.

[5] Based on 2 States proposing a new ADAM–CSAT Partner site and submitting a data file annually for three years (2 data files in first year + 2 more in second year = 4 data files + 2 more in third year or 6 data files = 12 data files in three years); 3 States proposing an addenda to an existing ADAM site (collected twice a year) and submitting a data file at the end of the one-time study in three years; and 2 States proposing an ADAM outreach study conducted once in three years. (Total data files in three years of 12 (new sites) +3+2=17 in three years or an average of 6 data files per year.)

[6] Based on 2 States per year proposing an Inmate Population study and submitting a data file at the end of the study. The studies will be conducted once in the three year cooperative agreement.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Lauren Wittenberg, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 15, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–9611 Filed 4–18–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities Under Emergency Review by the Office of Management and Budget

The Substance Abuse and Mental Health Services Administration

(SAMHSA) has submitted the following request (see below) for emergency OMB review under the Paperwork Reduction Act (44 U.S.C. chapter 35). OMB approval has been requested by May 1. A copy of the information collection plans may be obtained by calling the SAMHSA Reports Clearance Officer on (301) 443–7978.

Title: Notification of Intent to Use Schedule III, IV, or V Opioid Drugs for the Maintenance and Detoxification Treatment of Opiate Addiction Under 21 U.S.C. 823(g)(2)

OMB Number: 0930–New.

Frequency: On-occasion.

Affected public: Business or other for-profit.

The Drug Addiction Treatment Act of 2000 (''DATA,'' Pub. L. 106–310) amended the Controlled Substances Act (21 U.S.C. 823(g)(2) to permit practitioners (physicians) to seek and obtain waivers to prescribe certain approved narcotic treatment drugs for the treatment of opiate addiction. The legislation sets eligibility requirements and certification requirements as well as an interagency notification review process for physicians who seek waivers.

To implement these new provisions, SAMHSA has developed a notification form (SMA 167) that will facilitate the submission and review of notifications. The form will provide the information necessary to determine whether practitioners (i.e., independent physicians and physicians in group practices (as defined under section 1877(h)(4) of the Social Security Act)) meet the qualifications for waivers set forth under the new law. Use of this form will enable physicians to know they have provided all information needed to determine whether practitioners are eligible for a waiver. However, there is no prohibition on use of other means to provide requisite information. The Secretary will convey notification information and determinations to the Drug Enforcement Administration (DEA), which will assign an identification number to qualifying practitioners; this number will be included in the practitioner's registration under 21 U.S.C. 823(f). Practitioners will also use this notification form to renew their waivers at the time they renew their DEA practitioner registration-every three years.

Practitioners will use the form for three types of notification: (a) New, (b) immediate, and (c) renewal. Under ''new'' notifications, practitioners will make their initial waiver requests to SAMHSA. ''Immediate'' notifications will inform SAMHSA and the Attorney General of a practitioner's intent to prescribe immediately to facilitate the treatment of an individual (one) patient under 21 U.S.C. 823(g)(2)(E)(ii). ''Renewal'' notifications will be submitted to HHS to initiate review of an existing waiver.

The form will collect data on the following items: Pactitioner name; state medical license number and DEA registration number; address of primary location, telephone and fax numbers; e-mail address; name and address of group practice; group practice employer identification number; names and DEA registration numbers of group practitioners; purpose of notification new, immediate, or renewal); certification of qualifying criteria for treatment and management of opiate-dependent patients; certification of capacity to refer patients for appropriate counseling and other appropriate ancillary services; certification of maximum patient load, certification to use only those drug products that meet the criteria in the law. The form will also notify practitioners of Privacy Act considerations, and permit practitioners to expressly consent to disclose limited information to the SAMHSA Substance Abuse Treatment Facility Locator.

At present, there are no narcotic drugs or combinations for use under notifications; however, SAMHSA believes that it is appropriate to develop a notification system to implement DATA in anticipation of narcotic treatment medications becoming available in the very near future. Therefore, SAMHSA is requesting emergency OMB approval of form SMA 167 so that physicians will have it available to use if they wish to be assured that all required information is provided on their waiver submission and so that the review of submissions may be facilitated by use of a standard format for provision of the required information. Respondents will be able to submit the form electronically, through a dedicated Web page that SAMHSA will establish for the purpose, as well as via U.S. mail.

The following table summarizes the estimated annual burden for the use of this form.

Purpose of Submission	Number of respondents	Responses per respondent	Burden per response (Hr.)	Total burden (Hrs.)
Initial Application for Waiver	1,200	1	.083	100
Notification to Prescribe Immediately	33	1	.083	3
Application for Renewal	1,200	1	.083	100
Total	1,200			203

Written comments and recommendations concerning the proposed information collection should be sent by April 30, 2002 to: Lauren Wittenberg, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 4, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–9799 Filed 4–18–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, DHHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2002 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, Competing Continuation for the Cooperative Agreement for a Violence Prevention Coordinating Center, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. Funds FY 2001	Est. number of awards	Project period (years)
Competing Continuation for the Cooperative Agreement for a Violence Prevention Coordinating Center.	May 10, 2002 ...	$2,500,000	1	1

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: Knowledge Exchange Network, P.O. Box 42490, Washington, DC 20015, 800–789–2647.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), The Center for Mental Health Services (CMHS), announces the availability of fiscal year (FY) 2002 funds for a competitive continuation cooperative agreement to the Violence Prevention Coordination Center, referred to hereafter as the Safe Schools/Healthy Students (SS/HS) Action Center. The SS/HS Action Center will:

(1) Provide technical assistance (TA) utilizing the current consultant/broker model, to the 23 SS/HS grantees in the FY 2000 cohort.

(2) Provide targeted contractual awards to a percentage of grantees from the FY 1999 SS/HS cohort to develop a strategy for addressing sustainability issues.

(3) Plan, organize, and implement, including providing all logistical support for, the SS/HS national grantee meeting to be held during FY 2003. The national meeting will involve a minimum of 500 participants from approximately 88 SS/HS grant sites.

Eligibility: Eligibility is limited to the currently funded SS/HS Action Center operated by the National Mental Health Association (NMHA), in partnership with the National Association of School Psychologists (NASP). Only NMHA can apply because of its unique role as the official TA Center for the SS/HS Initiative first launched in 1999.

Availability of Funds: In FY 2002, approximately $2,500,000 will be available in total costs (direct and indirect).

Period of Support: The award may be requested for one year.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions concerning program issues, contact: Gail F. Ritchie, M.S.W., SAMHSA/CMHS, 5600 Fishers Lane 17C–05, Rockville, MD 20857, (301) 443–7790, Email: *gritchie@samhsa.gov.*

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, Substance Abuse and Mental Health, Services Administration, 5600 Fishers Lane 13–103, Rockville, MD 20857, (301) 443–9666, E-Mail: *shudak@samhsa.gov.*

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep state and local health officials apprized of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's

Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to:

Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: April 12, 2002.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Service Administration.

[FR Doc. 02–9531 Filed 4–18–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4730–N–16]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: April 19, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a notice, on a weekly basis, identifying unutilized, underutilized, excess an surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 12, 2002.

John D. Garrity,

Director, Office of Special Needs, Assistance Program.

[FR Doc. 02–9513 Filed 4–18–02; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–1430–ES; N–66442]

Notice of Realty.

ACTION: Bureau of Land Management, Interior.

ACTION: Segregation terminated, recreation and public purposes lease/conveyance; notice.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada was segregated for exchange purposes on July 23, 1997 under serial numbers N–61855 and N–66364. The exchange segregations on the subject land will be terminated upon publication of this notice in the **Federal Register**. The land has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Clark County proposes to use the land for a regional park.

Mount Diablo Meridian

Nevada, T. 22 S., R. 60 E.,sec. 28, N½SW¼, SW¼SW¼, N½SE¼SW¼, SE¼SE¼SW¼, E½NE¼NE¼SE¼, E½NW¼NE¼SE¼, S½NE¼SE¼, NW¼SE¼, SW¼SE¼, W½SE¼SE¼, N½NE¼SE¼SE¼.

Approximately 285.0 acres.

The regional park is located at Buffalo Drive and Cactus Avenue. The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

1. Easements in accordance with the Clark County Transportation Plan.

2. Those rights for power line purposes which have been granted to Nevada Power Company by Permit No. Nev–015991 under the act of February 15, 1901 (031 Stat. 0790; 43 U.S.C. 959).

3. Those rights for power line purposes which have been granted to Nevada Power Company by Permit No. N–58888 under the act of October 21, 1976 (090 Stat. 2776; 43 U.S.C. 1761).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada or by calling (702) 515–5088.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws, and disposal under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the land to the Las Vegas Field Manager, Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130–2301.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a regional park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use/uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs. The classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The land will not be offered for lease/conveyance until after the classification becomes effective.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper

administrative procedures in reaching the decision, or any other factor directly related to the suitability of the land for a regional park. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: February 13, 2002.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 02–9612 Filed 4–18–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice of Availability of the Final Environmental Impact Statement (EIS) for the Proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2002–2007

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the final EIS for the proposed OCS Oil and Gas Leasing Program for 2002–2007.

SUMMARY: The MMS has prepared a final EIS related to the Proposed OCS Oil and Gas Leasing Program for 2002–2007 pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969.

FOR FURTHER INFORMATION CONTACT: Questions concerning the preparation of the final EIS should be directed to Minerals Management Service, Attention: Mr. Richard Wildermann, Environmental Division, 381 Elden Street, Mail Stop 4042, Herndon, Virginia 20170–4817. He may be reached by telephone at (703) 787–1670.

SUPPLEMENTARY INFORMATION: Information on the availability of the final EIS can be obtained from the Minerals Management Service, Environmental Assessment Branch, Mail Stop 4042, 381 Elden Street, Herndon, Virginia 20170–4817, telephone (703) 787–1728; Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2788 or 1–800–200–GULF; Minerals Management Service, Alaska OCS Region, 949 East 36th Avenue, Suite 300, Anchorage, Alaska 99508–4302, telephone (907) 271–6070 or 1–800–764–2627; and Minerals Management Service, Pacific OCS Region, 770 Paseo Camarillo, Camarillo, California 93010–60641, telephone (805) 389–7520 or 1–800–672–2627.

Dated: April 16, 2002.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

Dated: April 16, 2002.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 02–9659 Filed 4–18–02; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice of Availability of the Proposed Final 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2002–2007

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of proposed program.

SUMMARY: The MMS has issued a proposed final program for 2002–2007. This is the third and final proposal for a new OCS oil and gas leasing program, following the July 2001 draft proposed program and October 2001 proposed program. A final Environmental Impact Statement (EIS) prepared in accordance with section 102(2)(C) of the National Environmental Policy Act has been issued along with the proposed final program. The proposed final program has been submitted to the President and Congress as required by section 18 of the OCS Lands Act. In accordance with section 18, the Secretary of the Interior may approve the new leasing program after a period of 60 days.

DATES: The new program is scheduled to go into effect on July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Proposed final program and final EIS documents and information can be obtained from the MMS internet Web page at *www.mms.gov.* They also can be obtained from the following MMS offices: Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2947 or 1–800–200–GULF; Alaska Region, University Plaza Building, Suite 300, 949 East 36th Avenue, Anchorage, Alaska 99508, telephone (907) 271–6070.

SUPPLEMENTARY INFORMATION: Questions concerning preparation of the proposed final program should be directed to: Ralph V. Ainger, Chief, Leasing Division, MS–4430, Minerals Management Service, Room 2328, 381 Elden Street, Herndon, Virginia 20170–4817, telephone (703) 787–1215. Copies of the program document and related information also can be obtained from the Leasing Division.

Questions concerning preparation of the final EIS should be directed to: Richard Wildermann, Chief, Environmental Assessment Branch, MS–4320, Minerals Management Service, 381 Elden Street, Herndon, Virginia 20170–4817, telephone (703) 787–1674. Copies of the EIS and related information also can be obtained from the Environmental Assessment Branch.

Dated: April 5, 2002.

R.M. "Johnnie" Burton,

Director, Minerals Management Service.

[FR Doc. 02–9660 Filed 4–18–02; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Kennewick and Columbia Irrigation Districts Pump Exchange Feasibility Study, Washington

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement and to conduct public scoping meetings.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) intends to prepare an Environmental Impact Statement (EIS) on the Kennewick and Columbia Irrigation Districts Pump Exchange Feasibility Study, Washington. The purpose of this project is to evaluate opportunities to increase and improve streamflows in the lower Yakima River between the Prosser Diversion Dam and the mouth of the Yakima River during the irrigation season by investigating a water exchange project in the lower portion of the Yakima River or the electrification of the Chandler hydraulic pumps. Alteration of current conditions in this reach could improve spawning and rearing habitat and migration conditions for anadromous fish. Alternatives being considered are partial or full Yakima-Columbia River water exchange, or electrification of the Chandler Pumping Plant. Reclamation is requesting early public comment and agency input to help identify significant issues or other alternatives to be addressed in the EIS.

DATES: Scoping meetings will be held on the following dates and times:

- Kennewick, WA: May 1, 2002, Open Houses 12 pm to 1 pm and 6 pm

to 7 pm; Meetings 1 to 3 pm and 7 pm to 9 pm.

Written comments will be accepted through June 3, 2002, for inclusion in the scoping summary document.

The meeting facilities are physically accessible to people with disabilities. Please direct requests for sign language interpretation for the hearing impaired, or other auxiliary aids, to David Kaumheimer by April 17, 2002, at the telephone, fax or TTY relay numbers listed under the **FOR FURTHER INFORMATION** section of this notice.

ADDRESSES: Comments and requests to be added to the mailing list may be submitted to Bureau of Reclamation, Upper Columbia Area Office, Attention: David Kaumheimer, Environmental Programs Manager, 1917 Marsh Road, Yakima, Washington 98907–1749.

The scoping meetings will be held at the following location:

- West Coast Hotel Kennewick, North 1101 Columbia Center Blvd, Kennewick WA, 99336.

FOR FURTHER INFORMATION CONTACT: David Kaumheimer, Environmental Programs Manager, (509) 575–5848, extension 232, or fax: (509) 454–5611. TTY users may call (509) 575–5848 by dialing 711 to obtain a toll free TTY relay.

SUPPLEMENTARY INFORMATION:

Public Disclosure

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Background

Reclamation has undertaken this study as one potential means to augment instream flow in the lower Yakima River and benefit anadromous fish under the authority of Title XII, Phase 2 of the Yakima River Basin Water Enhancement Project, in Public Law 103–434 (Title XII), which was passed by the Congress on October 31, 1994. Public Law 106–372, which amended Title XII, authorized an engineering feasibility report of the Chandler Pump Exchange, as well as electrifying the pumps at the Chandler Pumping Plant at Prosser Diversion Dam, Washington. Alternatives being considered include either a partial or full Yakima-Columbia River water exchange, or the electrification of the Chandler Pumping Plant.

Water exchange would entail pumping water from the Columbia River near the mouth of the Yakima River into the Kennewick Irrigation District (KID) and Columbia Irrigation District (CID) canals and reducing the amount of water diverted from the Yakima River at the current points of diversion. One of the alternatives being considered is a partial exchange of KID's full Yakima River diversion. It would involve diverting about ⅔ of KID's total 333 cfs diversion from the Columbia River and continuing to divert the remainder at Prosser Dam on the Yakima River. Another alternative is a full exchange which would totally eliminate the diversion of water from the Yakima River to the KID canal. Both alternatives would involve pumping approximately 116 cfs of CID's total existing Yakima River diversion from the Columbia River.

The alternative of electrification of the Chandler Pumping Plant would involve replacing the existing hydraulic pumps in the pumping plant with electric pumps to pump Yakima River water into KID's main canal at the current point of diversion. The Chandler Pumping Plant is located at the end of the Chandler Canal into which water is diverted at Prosser Dam. Replacing the hydraulic pumps with electric pumps would eliminate the need to divert water at Prosser Dam to drive the hydraulic pumps leaving up to 450 cfs in the 11 mile reach of the Yakima River from Prosser Dam to the Chandler Pumping Plant. No exchange with CID would take place under this alternative.

Public Involvement

Reclamation plans to conduct public scoping meetings to solicit input on the alternatives developed to address stream flows in the lower Yakima River between Prosser Dam and the mouth of the river, and impacts associated with those alternatives. Reclamation will summarize comments received during the scoping meetings and written comments received during the scoping period, identified under **DATES**, into a scoping summary document which will be made available to the public.

Dated: April 11, 2002.

Darryl Beckmann,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 02–9566 Filed 4–18–02; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–02–011]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 29, 2002 at 2 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–989 (Preliminary) (Ball Bearings from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on April 29, 2002; Commissioners' opinion are currently scheduled to be transmitted to the Secretary of Commerce on or before May 6, 2002.)
5. Inv. Nos. 731–TQ–929–931 (Final) (Silicomanganese from India, Kazakhstan, and Venezuela)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on May 16, 2002.)
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: April 16, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–9722 Filed 4–17–02; 10:06 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: 30-day notice of information collection under review: Extension of a

currently approved collection; application for employment/Federal Bureau of Investigation.

The Department of Justice (DOJ), Federal Bureau of Investigation, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** on February 6, 2002, Volume 67, Number 25, Pages 5617–5618, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until May 20, 2002. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Office of Management, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 1600, 601 D Street, NW, Washington, DC, 20530. Written comments and suggestions from the public and affected agencies are encouraged. Your comments should address one or more of the following points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used;

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

(4) Evaluate whether the data collection instrument will minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Extension of a Currently Approved Collection.

(2) *The title of the Form/Collection.* Application for Employment/Federal Bureau of Investigation.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: FD–140. Application Component: Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Primary: Individuals and households. Other: None. Abstract: The FD–140, Application for Employment, is utilized to collect pertinent background information on all applicants for FBI positions. The FD–140 is issued in lieu of Standard Form 86, Questionnaire for National Security Positions, to address suitability and security concerns beyond the scope of the SF–86. Furthermore, the FD–406, Authority to Release Information, it also incorporated into the FD–140 in order for the FBI to obtain necessary records.

(5) *An estimate of the total number of respondents and the estimated amount of time for an average person to respond or reply:* 50,000 respondents with the average response rate of 10 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 500,000 annual burden hours.

If additional information is required contact: Mr. Robert Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW, Washington, DC 20530.

Dated: April 15, 2002.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 02–9528 Filed 4–18–02; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 11, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 693–4158 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: New Collection.

Agency: Bureau of Labor Statistics (BLS).

Title: American Time Use Survey (ATUS).

OMB Number: 1220–0NEW.

Affected Public: Individuals or households.

Frequency: Monthly.

ESTIMATED TIME PER RESPONSE AND TOTAL BURDEN HOURS

Form	Total respondents	Frequency	Average time per response (minutes)	Estimated total burden (hours)
Pre-fielding: Nov.-Dec. 2002	4,000	Once	35	2,300
Full Production: Beginning Jan. 2003	24,000	Annually	35	14,000
Totals	28,000			16,300

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The time use data collected in the American Time Use Survey (ATUS) will help determine how the population in the United States uses its time participating in such activities as paid work, child care, housework, volunteering, socializing, and commuting. This information will allow comparisons of time use across demographic characteristics such as age, sex, race, educational attainment, and labor force status. The ATUS data will help Federal, State, and local government policy makers more fully understand non-economic, as well as economic, effects of policy decisions, and to better determine when to develop new or change existing policies to address the needs of our society.

Ira L. Mills,

DOL Clearance Officer.

[FR Doc. 02–9650 Filed 4–18–02; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

April 10, 2002.

The Department of Labor has submitted the following information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by May 15, 2002. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain a copy of this ICR, contact Darrin King on 202–693–4129 or Email: *king-darrin@do.gov.*

Comments and questions about the ICR listed below should be submitted to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316), and received by May 15, 2002.

The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: Women's Bureau (WB).

Title: Women in Apprenticeship and Nontraditional Occupations (WANTO) Act Grant Application and Reporting Requirements.

OMB Number: 1225–0NEW.

Affected Public: Not-for-profit institutions.

Type of Response: Reporting.

Number of Respondents: 40.

Requirement	Frequency	Estimated number of reponses	Average response time (hours)	Estimated annual burden hours
Grant Application				
Previous Applicant	Annually	30	6	180
New Applicant	Annually	10	12	120
Quarterly Reports				
Previous Applicant	Quarterly	9	2	72
New Applicant	Quarterly	3	5	60
Final Report				
Previous Applicant	Annually	9	4	36
New Applicant	Annually	3	10	30
Totals		64		498

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Description: This collection of information is needed for the Department of Labor to make a selection

of annual Women in Apprenticeship and Nontraditional Occupations (WANTO) grant awardees, as well as to monitor grant administration.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–9651 Filed 4–18–02 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment; O*NET® Data Collection Program

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95), 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension collection of the O*NET® (Occupational Information Network) Data Collection Program. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or can be downloaded from the Internet at: *http://www.onetcenter.org/ombclearance.html.*

DATES: Written comments must be submitted to the office listed in the addressee section below on or before June 18, 2002.

ADDRESSES: Send comments regarding the O*NET Data Collection Program to James Woods, Chief, Division of Evaluation and Skill Assessment, Office of Policy and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N5637, Washington, DC 20210. The telephone number is 202–693–3660 (this is not a toll-free number). Comments may also be submitted via e-mail to: *O*NET@doleta.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The O*NET Data Collection Program is a continuing activity to develop and maintain up-to-date information on detailed characteristics of occupations. The resulting database is and will continue to be the most comprehensive standard source of occupational characteristics information in the nation. O*NET information is at the center of an extensive network of occupational information used by a wide range of audiences, from individuals making career decisions, to public agencies and schools providing career exploration services and planning workforce investment programs, to businesses making staffing and training decisions. The O*NET system also provides a common language and framework to meet administrative needs of various federal programs, including workforce investment and training programs of the Departments of Labor, Education, and Health and Human Services.

Section 309 of the Workforce Investment Act requires the Secretary of Labor to oversee the ''development, maintenance, and continuous improvement of a nationwide employment statistics system'' which shall include, among other components, ''skill trends by occupation and industry.'' The States are to develop similar statewide employment statistics systems.

The Secretary of Labor's Workforce Information System Plan for FY 2001–2005, released in October 2001, includes as one of its priorities, the collection of occupational skills data, stating, ''During FY 2001, ETA initiated the data collection program for Occupational Information Network (O*NET) to update the database and refresh it on a regular basis. ETA also will continue research and development on O*NET measurement concepts and data collection methods.'' This citation in the plan reflects that the O*NET system is the primary vehicle for collecting skills information across all occupations and the updating of the entire O*NET database is a critical component of the nationwide labor market information system to support employer, workforce, and education information needs.

O*NET succeeds the Dictionary of Occupational Titles (DOT) and is a powerful tool for various critical federal and state workforce development functions. O*NET integrates a powerful relational database and a common language for occupational and skill descriptions into a value-added tool for business, job seekers, and the workforce development professionals who help bring them together. By providing information organized according to the O*NET Content Model, the O*NET database is an important tool for keeping up with today's rapidly changing world of work. The O*NET database provides:

- Detailed information for more than 900 occupations.
- Descriptive information on standardized descriptors of skills, abilities, interests, knowledge, work values, education, training, work context, and work activities.
- Occupational coding based on the 2000 Standard Occupational Classification (SOC).

The O*NET electronic database serves as the underpinning for hundreds of publicly and privately developed products and resources in the marketplace. These products and resources are being used to serve millions of customers.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

The O*NET Data Collection Program established the foundation for continuous data collection to update and maintain the O*NET database using collection methods designed to obtain high quality and current data. The first complete cycle of data collection will be completed in the fall of 2002. The DOL is seeking Office of Management and Budget approval for a three-year continuation to collect and fully populate the O*NET database with data

from workers and some subject matter experts sampled in this survey.

Customers using O*NET are expanding quickly as more private and public developers integrate O*NET information into their products. The consequence of not continuing the O*NET Data Collection Program is that millions of users who need O*NET information to make important life, business, and policy decisions will have to make these decisions using information that is not current, is incomplete, and of questionable validity and reliability. Users will not have the benefit of practical results from the publicly funded research that has led to the O*NET system. Updating the O*NET database is crucial to providing business, job seekers, students, educators, and counselors with the most up-to-date information about occupations and occupational requirements.

The O*NET Data Collection Program is collecting information on 200 occupations in the first year, increasing the number of occupations in subsequent years to allow collection on all 974 O*NET occupations over the next three years. The O*NET occupations either match to, or represent more detailed breakouts of, occupations from the 2000 Standard Occupational Classification.

O*NET uses five survey questionnaires: (1) Skills, (2) Generalized Work Activities, which are general types of job behaviors occurring on multiple jobs, (3) Abilities, (4) Work Context, the physical and social factors that influence the nature of work, and (5) Knowledge, which includes Education and Training and Work Styles. (Copies of these questionnaires are also available from the following Internet site: *http://www.onetcenter.org/ombclearance.html*.)

All but the Abilities questionnaire will be used to survey incumbent workers identified using the two-stage sample design. Analysts will rate Abilities. While the sample of incumbent workers is designed to provide responses from four questionnaires, to reduce response burden each incumbent will be randomly assigned only one of the four questionnaires. Incumbents also will be asked to provide basic demographic information and to complete a brief task inventory for their specific occupation. Incumbents will be offered the option of going to an Internet website to complete an on-line questionnaire.

The name of incumbent respondents will not be requested on the survey form and all individual responses will be maintained in strict confidentiality. The data from job incumbents and others will be used to develop mean ratings on the various items.

The resulting data will be subjected to extensive analysis and will be made available to the public through scheduled updates to the O*NET database.

The increase in the estimated total burden hours is due to an increase in the estimated establishment sample size needed to identify firms that employ workers in the particular occupations being surveyed. Those firms found to be ineligible or out-of-scope are then taken out of the data collection process. In addition, the estimated average time per employer response (employer burden hours) has decreased, based on experience and survey design improvements since the first information collection request.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: O*NET Data Collection Program.

OMB Number: 1205–0421.

Affected Public: Business/Employers (includes private and not-for-profit businesses and government); individuals (incumbent workers, subject matter experts).

Total Respondents: 79,598.

Frequency of Response: Annual.

Total Responses: 79,598.

Average Time Per Response: Employer response time is 70 minutes. Incumbent worker response time is 30 minutes. Subject matter expert response time is 2 hours, 30 minutes.

Estimated Total Annual Burden Hours: 32,531 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed at Washington, DC, this 15th day of April, 2002.

Gerard F. Fiala,

Administrator, Office of Policy and Research, Employment and Training Administration.

[FR Doc. 02–9649 Filed 4–18–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used

in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. MD020012. See MD020011.

Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New Hampshire
NH020001 (Mar. 1, 2002)
New Jersey
NJ020002 (Mar. 1, 2002)
NJ020003 (Mar. 1, 2002)
NJ020009 (Mar. 1, 2002)

Volume II

Maryland
MD020001 (Mar. 1, 2002)
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MD020011 (Mar. 1, 2002)
MD020021 (Mar. 1, 2002)
MD020035 (Mar. 1, 2002)
MD020037 (Mar. 1, 2002)
MD020054 (Mar. 1, 2002)
MD020058 (Mar. 1, 2002)
Virginia
VA020026 (Mar. 1, 2002)

Volume III

Alabama
AL020004 (Mar. 1, 2002)
AL020006 (Mar. 1, 2002)
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AL020017 (Mar. 1, 2002)
AL020033 (Mar. 1, 2002)
AL020034 (Mar. 1, 2002)
AL020042 (Mar. 1, 2002)
AL020052 (Mar. 1, 2002)

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IL020001 (Mar. 1, 2002)
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IL020012 (Mar. 1, 2002)
IL020013 (Mar. 1, 2002)
IL020014 (Mar. 1, 2002)
IL020015 (Mar. 1, 2002)
IL020016 (Mar. 1, 2002)
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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage determinations Issued Under the Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts

are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http:/davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC., This 11th Day of April, 2002.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 02–9270 Filed 4–18–02; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (02–051)]

Information Collection; Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). NASA will utilize the information collected to determine whether the Agency's recruitment efforts are reaching all segments of the country.

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Ms. Candace Irwin, Code FPP, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: NASA Voluntary On-Line Job Applicant Racial and Ethnic Data Collection.

OMB Number: 2700.

Type of review: New collection.

Need and Uses: Information is used by NASA personnel staff to determine if recruitment efforts are reaching all segments of the country, as required by Federal law.

Affected Public: Individuals or households; Federal government.

Number of Respondents: 40,000.

Responses Per Respondent: 1.

Annual Responses: 40,000.

Hours Per Request: 5 min/request.

Annual Burden Hours: 3,334.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–9527 Filed 4–18–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Request for copies must be received in writing on or before June 3, 2002. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to *records.mgt@nara.gov.* Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This

approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Food and Nutrition Service (N1–462–02–1, 4 items, 4 temporary items). Records accumulated in connection with billings submitted to the agency by contractors hired to visit and report findings on stores that participate in the Food Stamp Program. Records include call orders and confirmation letters issued to prospective contractors, billing invoices, and deficiency reports submitted by contractors. Also included are electronic copies of documents created using electronic mail and word processing.

2. Department of the Air Force, Agency-wide (N1–AFU–02–5, 78 items, 78 temporary items). Electronic versions of temporary records relating to logistics and maintenance matters. Included are electronic copies of documents created using electronic mail and word processing as well as electronic records that supplement or replace paper records already approved for disposal. Records relate to such matters as the preparation of aircraft inventories and other accountability documents, the disposal of surplus aircraft, materiel deficiencies, maintenance activities at depots, equipment inspections, the operation of telephone and telecommunications equipment, and training.

3. Department of the Air Force, Agency-wide (N1–AFU–02–6, 87 items, 87 temporary items). Electronic versions of temporary records relating to accounting and finance. Included are electronic copies of documents created using electronic mail and word processing as well as electronic records that supplement or replace paper records already approved for disposal. Records relate to such matters as cost accounting, financial statements, contract financing, international accounting, and revolving funds.

4. Department of the Army, Agency-wide (N1–AU–02–3, 3 items, 2 temporary items). Records relating to the abatement of local area environmental pollution, including such files as inventories, source documentation, and electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of agency-wide pollution abatement information, including documentation forwarded from local areas, is proposed for permanent retention. This schedule also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

5. Department of the Army, Agency-wide (N1–AU–02–9, 2 items, 2 temporary items). Records relating to educational and developmental intervention services. Included are referral documentation, evaluations, eligibility documentation, early intervention service coordination documents, transition plans, and electronic copies of documents created using electronic mail and word processing. This schedule also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of the Army, Agency-wide (N1–AU–02–10, 2 items. 2 temporary items). Records relating to periodic alcohol and drug testing of personnel who handle chemical and nuclear weapons and materiel. Included are such records as urinalysis test results and electronic copies of documents created using electronic mail and word processing. This schedule also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

7. Department of the Army, Agency-wide (N1–AU–02–11, 2 items, 2 temporary items). Records relating to records disposition exceptions and freezes. Included are requests, approvals, and related information reflecting exceptions to record disposition standards. Also included are electronic copies of documents created using electronic mail and word processing. This schedule also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

8. Department of Justice, United States Marshals Service (N1–527–02–1, 3 items, 3 temporary items). Records relating to court and special security officers. Records include such documents as personal history statements, medical histories, background investigation records, and firearm qualifications. Also included are electronic copies of documents created using electronic mail and word processing.

9. Department of Labor, Employment Standards Administration (N1–448–01–2, 105 items, 90 temporary items). Records of the Office of Federal Contract Compliance Programs, including such record series as Deputy Assistant Secretary review records, invitations to high agency officials, drafts of publications, computer-generated hardcopy reports, customer and equal employment opportunity (EEO) surveys, correspondence concerning EEO awards, contract compliance logs, conciliation agreement files, contractor debarment and reinstatement files, compliance extension files, expert witness files, Joint Review Committee minutes and correspondence, an investigation case tracking system, records relating to external reviews and audits, and records of yearly task forces. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are such records as recordkeeping copies of publications, records of EEO awards, and databases relating to compliance reviews, Federal procurement, complaint administration, and other matters along with the related system documentation.

10. Department of State, Bureau of Political and Military Affairs (N1–59–01–21, 48 items, 37 temporary items). Records of the Office Regional Security and Arms Transfers relating to clearing arms sales and the provision of services and training to foreign countries. Records include clearance requests, logs, security officer nominations, munitions case files, routine public inquiries, chronological files, daily activity reports, advisory group membership files, and administrative files. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such records as program files, policy files, briefing books, special munitions sales case files, and memorandums of agreement with foreign nations regarding weapons technology development.

11. Department of the Treasury, Office of Enforcement (N1–56–02–2, 9 items, 9 temporary items). Paper and electronic versions of individual student files, class files, and student medical/health files accumulated by the Federal Law Enforcement Training Center. Also included are electronic copies of documents created using electronic mail and word processing.

12. Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances (N1–412–02–6, 2 items, 2 temporary items). Records relating to child-resistant packaging, including such files as requests for information, status reviews of products, copies of **Federal Register** Notices, policy notices, requests for exemptions from regulations, and reports. Also included are electronic copies of records created using electronic mail and word processing.

13. Tennessee Valley Authority, River System Operations and Environment, (N1–142–02–3, 19 items, 9 temporary items). Notes, feature separates, film, scribe sheets, printing negatives, and related material used in creating maps for publication. Also included are electronic copies of records created using electronic mail, word processing, and other office automation applications. Record sets of all printed maps and related indexes are proposed for permanent retention.

Dated: April 11, 2002.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 02–9625 Filed 4–18–02; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Education and Human Resources; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Education and Human Resources (#1119).

Dates/Time: May 15, 2002, 8:30 a.m.–6 p.m.; May 16, 2002, 8:20 a.m.–3 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Open.

Contact Person: John B. Hunt, Senior Liaison, ACEHR, Directorate for Education and Human Resources, National Science Foundation, 4201 Wilson Boulevard, Room 805, Arlington, VA 22230, 703–292–8602.

Summary Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning NSF support for Education and Human Resources.

Agenda: Discussion of FY 2002 programs of the Directorate for Education and Human Resources and planning for future activities.

Dated: April 16, 2002.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 02–9667 Filed 4–18–02; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–368]

Entergy Operations, Inc.; Arkansas Nuclear One, Unit 2; Exemption

1.0 Background

Entergy Operations, Inc. (the licensee) is the holder of Facility Operating License No. NPF–6 which authorizes operation of the Arkansas Nuclear One, Unit 2 (ANO–2) nuclear power plant. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter, in effect.

The facility consists of a pressurized water reactor located in Pope County, Arkansas.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), part 50, Appendix G requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, Appendix G to 10 CFR Part 50 states that ''[t]he appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' Further, Appendix G of 10 CFR Part 50 specifies that the requirements for these limits are based on the application of evaluation procedures given in Appendix G to Section XI of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code). In this exemption, consistent with the current provisions of 10 CFR 50.55(a), all references to the ASME Code denote the 1995 Edition through the 1996 Addenda of the ASME Code.

In order to address provisions of amendments to the ANO–2 Technical Specification (TS) P–T limit curves, the licensee requested in its submittal dated October 30, 2001, that the staff exempt ANO–2 from application of specific requirements of Appendix G to 10 CFR Part 50, and substitute use of ASME Code Case N–641. ASME Code Case N–641 permits the use of an alternate reference fracture toughness curve for RPV materials and permits the postulation of a circumferentially-oriented flaw for the evaluation of circumferential RPV welds when determining the P–T limits. The proposed exemption request is consistent with, and is needed to support, the ANO–2 TS amendment that was contained in the same submittal. The proposed ANO–2 TS amendment will revise the P–T limits for heatup, cooldown, and inservice test limitations for the reactor coolant system (RCS) through 32 effective full power years of operation.

Code Case N–641

The licensee has proposed an exemption to allow use of ASME Code Case N–641 in conjunction with Appendix G to ASME Section XI, 10 CFR 50.60(a), and 10 CFR part 50, Appendix G, to establish P–T limits for the ANO–2 RPV.

The proposed TS amendment to revise the P–T limits for ANO–2 relies in part on the requested exemption. These revised P–T limits have been developed using the lower bound K_{IC} fracture toughness curve shown in ASME Section XI, Appendix A, Figure A–2200–1, in lieu of the lower bound K_{IA} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1, as the basis fracture toughness curve for defining the ANO–2 P–T limits. In addition, the revised P–T limits have been developed based on the use of a postulated circumferentially-oriented flaw for the evaluation of RPV circumferential welds in lieu of the axially-oriented flaw which would be required by Appendix G to Section XI of the ASME Code. The other margins involved with the ASME Section XI, Appendix G process of determining P–T limit curves remain unchanged.

Use of the K_{IC} curve as the basis fracture toughness curve for the development of P–T operating limits is more technically correct than use of the K_{IA} curve. The K_{IC} curve appropriately implements the use of a relationship based on static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a RPV, whereas the K_{IA} fracture toughness curve codified into Appendix G to Section XI of the ASME Code was developed from more conservative crack arrest and dynamic fracture toughness test data. The application of the K_{IA} fracture toughness curve was initially codified in

Appendix G to Section XI of the ASME Code in 1974 to provide a conservative representation of RPV material fracture toughness. This initial conservatism was necessary due to the limited knowledge of RPV material behavior in 1974. However, additional knowledge has been gained about RPV materials which demonstrates that the lower bound on fracture toughness provided by the K_{IA} fracture toughness curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure.

Likewise, the use of a postulated circumferentially-oriented flaw in lieu of an axially-oriented one for the evaluation of a circumferential RPV weld is more technically correct. The size of flaw required to be postulated for P–T limit determination has a depth of one-quarter of the RPV wall thickness and a length six times the depth. Based on the direction of welding during the fabrication process, the only technically reasonable orientation for such a large flaw is for the plane of the flaw to be circumferentially-oriented (*i.e.*, parallel to the direction of welding). Prior to the development of ASME Code Case N–641 (and the similar ASME Code Case N–588), the required postulation of an axially-oriented flaw for the evaluation of a circumferential RPV weld has provided an additional, unnecessary level of conservatism to the overall evaluation.

In addition, P–T limit curves based on the K_{IC} fracture toughness curve and postulation of a circumferentially-oriented flaw for the evaluation of RPV circumferential welds, will enhance overall plant safety by opening the P–T operating window with the greatest safety benefit in the region of low temperature operations. The operating window through which the operator heats up and cools down the RCS is determined by the difference between the maximum allowable pressure determined by Appendix G of ASME Section XI, and the minimum required pressure for the reactor coolant pump seals adjusted for instrument uncertainties. A narrow operating window could potentially have an adverse safety impact by increasing the possibility of inadvertant overpressure protection system actuation due to pressure surges associated with normal plant evolutions such as RCS pump starts and swapping operating charging pumps with the RCS in a water-solid condition.

Since application of ASME Code Case N–641 provides appropriate procedures to establish maximum postulated defects and evaluate those defects in the context of establishing RPV P–T limits, this application of the Code Case maintains an adequate margin of safety for protecting RPV materials from brittle failure. Therefore, the licensee concluded that these considerations were special circumstances pursuant to 10 CFR 50.12(a)(2)(ii), ''[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.''

In summary, the ASME Section XI, Appendix G procedure was conservatively developed based on the level of knowledge existing in 1974 concerning reactor coolant pressure boundary materials and the estimated effects of operation. Since 1974, the level of knowledge about the fracture mechanics behavior of RCS materials has been greatly expanded, especially regarding the effects of radiation embrittlement and the understanding of fracture toughness properties under static and dynamic loading conditions. The NRC staff concurs that this increased knowledge permits relaxation of the ASME Section XI, Appendix G requirements by application of ASME Code Case N–641, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety against brittle failure of the RPV.

The NRC staff has reviewed the exemption request submitted by the licensee, and has concluded that an exemption should be granted to permit the licensee to utilize the provisions of ASME Code Case N–641 for the purpose of developing ANO–2 RPV P–T limit curves.

3.0 Dicsussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

Special circumstances, pursuant to 10 CFR 50.12(a)(2)(ii), are present in that continued operation of ANO–2 with the P–T curves developed in accordance with ASME Section XI, Appendix G without the relief provided by ASME Code Case N–641 is not necessary to achieve the underlying purpose of Appendix G to 10 CFR part 50. Application of ASME Code Case N–641, in lieu of the requirements of ASME Code Section XI, Appendix G, provides an acceptable alternative evaluational procedure which will continue to meet the underlying purpose of Appendix G to 10 CFR part 50. The underlying purpose of the regulations in Appendix G to 10 CFR part 50 is to provide an acceptable margin of safety against brittle failure of the RCS during any condition of normal operation to which the pressure boundary may be subjected over its service lifetime.

The NRC staff examined the licensee's rationale to support the exemption request, and accepts the licensee's determination that an exemption would be required to approve the use of Code Case N–641. The staff finds that the use of ASME Code Case N–641 would meet the underlying intent of Appendix G to 10 CFR part 50. Therefore, the NRC staff concluded that the application of the technical provisions of ASME Code Case N–641 provided sufficient margin in the development of RPV P–T limit curves such that the underlying purpose of the regulations (Appendix G to 10 CFR part 50) continue to be met such that the specific conditions required by the regulations, *i.e.,* use of all provisions in Appendix G to Section XI of the ASME Code, were not necessary. The NRC staff further concluded that the exemption requested by the licensee is justified based on the special circumstances of 10 CFR 50(a)(2)(ii), that ''[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.''

Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of Appendix G to 10 CFR part 50; Appendix G to Section XI of the ASME Code; and Regulatory Guide 1.99, Revision 2, the staff concluded that application of ASME Code Case N–641, as described, would provide an adequate margin of safety against brittle failure of the RPV. This is also consistent with the determination that the staff has reached for other licensees under similar conditions, based on the same considerations. Therefore, the staff concludes that requesting the exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate, and that the methodology of Code Case N–641 may be used to revise the P–T limits for the ANO–2 RPV.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense

and security. Also, special circumstances are present. Therefore, the Commission hereby grants Entergy Operations, Inc. an exemption from the requirements of 10 CFR 50.60 and 10 CFR part 50, Appendix G, to allow application of ASME Code Case N–641 in establishing TS requirements for the reactor vessel pressure limits at low temperatures for ANO–2.

Pursuant to 10 CFR 51.21, 51.32, and 51.35, an environmental assessment and finding of no significant impact was published in the Federal Register on April 8, 2002 (67 FR 16769). Accordingly, based upon the environmental assessment, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 15th day of April 2002.

For the Nuclear Regulatory Commission

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–9621 Filed 4–18–02; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection:

Statement of Authority to Act for Employee; OMB 3220–0034.

Under Section 5(a) of the Railroad Unemployment Insurance Act (RUIA), claims for benefits are to be made in accordance with such regulations as the Railroad Retirement Board (RRB) shall prescribe. The provisions for claiming sickness benefits as provided by Section 2 of the RUIA are prescribed in 20 CFR 335.2. Included in these provisions is the RRB's acceptance of forms executed by someone else on behalf of an employee if the RRB is satisfied that the employee is sick or injured to the extent of being unable to sign forms.

The RRB utilizes Form SI–10, Statement of Authority to Act for Employee, to provide the means for an individual to apply for authority to act on behalf of an incapacitated employee and also to obtain the information necessary to determine that the delegation should be made. Part I of the form is completed by the applicant for the authority and Part II is completed by the employee's doctor. One response is requested for each respondent. Completion is required to obtain benefits.

The RRB proposes no changes to Form SI–10.

The estimated annual respondent burden is as follows:

Form: SI–10.

Estimate of Annual Responses: 400.

Estimated Completion Time: 6 minutes.

Total Burden Hours: 40.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–9581 Filed 4–18–02; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of information collection:

Request for Medicare Payment; OMB 3220–0131.

Under section 7(d) of the Railroad Retirement Act, the RRB administers the Medicare program for persons covered by the railroad retirement system. The collection obtains the information needed by Palmetto GBA, the Medicare carrier for railroad retirement beneficiaries, to pay claims for payments under Part B of the Medicare program. Authority for collecting the information is prescribed in 42 CFR 424.32.

The RRB currently utilizes Forms G–740S and HCFA 1500 to secure the information necessary to pay Part B Medicare Claims. One response is completed for each claim. Completion is required to obtain a benefit.

No changes are proposed to RRB Form G–740S or HCFA Form 1500.

The RRB estimates annual respondent burden associated with RRB Form G–740s as follows:

Estimated number of responses: 100.

Estimated completion time per response: 15 minutes.

Estimated annual burden hours: 25.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 944 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–9582 Filed 4–18–02; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information collection has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques of other forms of information technology.

Title and Purpose of Information Collection

Aged Monitoring Questionnaire: OMB 3220–0178.

As outlined in 20 CFR 219.3(b), once a claimant establishes entitlement to an annuity under the Railroad Retirement Act (RRA), the RRB may ask that annuitant to produce evidence needed to decide whether he or she may continue to receive an annuity or whether the annuity should be reduced or stopped.

The RRB utilizes Form G–19c, Aged Monitoring Questionnaire, to monitor select aged annuitants. Use of the form assists RRB efforts to discover unreported deaths and also to determine if an aged annuitant is able to manage their own affairs. One response is requested from each respondent.

Completion is voluntary.

The RRB proposes no changes to Form G–19c.

The estimated annual respondent burden is as follows:

Estimated number of responses: 3,000.

Estimated completion time per response: 6 minutes.

Estimated annual burden hours: 300.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–9583 Filed 4–18–02; 8:45 am]

BILLING CODE 7905–1–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27518]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

April 12, 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 May 7, 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 May 7, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Alliant Energy Corporation et al. (70–9323)

Alliant Energy Corporation (''Alliant Energy''), a registered holding company, its subsidiary nonutility holding company, Alliant Energy Resources Corporation (''AER''), both located at 222 West Washington Avenue, Madison, Wisconsin 53703, and AER's nonutility subsidiary, Heartland Properties, Inc. (''Heartland'') (together, ''Applicants''), 122 West Washington Avenue, 6th Floor, Madison, Wisconsin 53703, have filed a post-effective amendment to their application-declaration under section 9(c)(3) of the Act and rule 54 under the Act.

By prior Commission orders dated August 13, 1999 (''August 13, 1999 Order''), July 10, 2000 and June 11, 2001 (HCAR Nos. 27060, 27198 and 27418) (collectively, ''Orders''), the Commission, among other things, authorized AER, through Heartland or other subsidiaries, to make passive investments in low-income, multi-family housing projects qualifying for Low Income Housing Tax Credits (''LIHTC''), under section 42 of the Internal Revenue Code. The Orders provided that Applicants' investments in LIHTC properties would be undertaken for the sole purpose of obtaining the related tax credits and that all investments would be self-liquidating as the LIHTCs expired.

Under the Orders, the LIHTC investments could be made by acquiring interests in limited partnerships or limited liability companies organized specifically to invest in LIHTC properties. The properties could be located outside of Alliant Energy's service territory. The Orders authorized LIHTC investments in amounts of up to $50 million from time to time, through August 13, 2004 (''Authorization Period''), in addition to the LIHTC investments that were authorized to be retained under the August 13, 1999 Order. As of December 31, 2001, Heartland had invested approximately $22.3 million of the amount authorized under the Orders and has commitments to invest $18 million in LIHTC properties.

The Applicants now propose that the Commission: (1) extend the Authorization Period from August 13, 2004 to June 30, 2007; and (2) increase the investment limit from $50 million to $125 million. The Applicants state that an extended Authorization Period is required to accommodate an expected two-year differential between commitment dates and funding dates for LIHTC investments, which could place some funding dates beyond the Authorization Period. The Applicants state further that increasing the investment limitation to $125 million will allow it to maintain its tax credit cash flow at the year 2002 level of approximately $9.3 million. No other changes or modifications to the terms, conditions or limitations contained in the Orders are proposed.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9627 Filed 4–18–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27520]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

April 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 May 10, 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 May 10, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Progress Energy, Inc. (70–10060)

Progress Energy, Inc. (''Progress Energy''), a registered holding company, 410 South Wilmington Street, Raleigh, NC 27602, has filed an application-declaration under sections 32 and 33 of the Act and rule 53 under the Act.

Progress Energy owns, directly or indirectly, all of the issued and outstanding common stock of three public-utility subsidiaries: Carolina Power & Light Company (''CP&L''), which generates, transmits, purchases and sells electricity in parts of North Carolina and South Carolina; Florida Power Corporation (''Florida Power''), which generates, transmits, purchases and sells electricity in parts of Florida; and North Carolina Natural Gas Corporation (''NCNG''), which distributes gas at retail in parts of North Carolina. Collectively, CP&L, Florida Power and NCNG are referred to as the ''Utility Subsidiaries.'' Together, the Utility Subsidiaries provide electric service to approximately 2.8 million wholesale and retail customers in parts of North Carolina, South Carolina and Florida and natural gas or gas transportation service to approximately 120,000 residential, commercial, agricultural and industrial customers, all in North Carolina.

By order dated December 12, 2000, in File No. 70–9659, as modified by orders dated September 20, 2001 and March 15, 2002 in File No. 9909 (together, ''Financing Orders''),[1] the Commission authorized Progress Energy, the Utility Subsidiaries and Progress Energy's direct and indirect nonutility subsidiaries to engage in a program of external 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 September 30, 2003. Under the Financing Orders, Progress is currently authorized: (1) To issue and sell common stock, preferred stock or other forms of preferred securities and unsecured long-term debt securities in an aggregate amount at any time outstanding not to exceed $7.5 billion; (2) to issue and sell commercial paper and other forms of unsecured short-term indebtedness in an aggregate principal amount at any time outstanding not to exceed $2.5 billion; and (3) to provide guarantees and other forms of credit support (''Guarantees'') on behalf or for the benefit of its subsidiaries in an aggregate or nominal amount not to exceed $2 billion at any time outstanding.

Under the terms of the Financing Orders, Progress Energy is authorized to use proceeds from the sale of securities to make investments in and to provide Guarantees with respect to the obligations of exempt wholesale generators (''EWGs'') and foreign utility companies (''FUCOs''). Progress Energy's aggregate investment (as defined under rule 53) in EWGs and FUCOs currently does not exceed 50% of its consolidated retained earnings (also as defined in rule 53). Progress Energy's aggregate investment in EWGs is currently $965 million, or 47% of Progress Energy's consolidated retained earnings for the four quarters ended December 31, 2001 ($2.07 billion).[2] Progress Energy does not currently hold an interest in any FUCO.

Progress Energy requests, under rule 53(c), authority to use the proceeds of authorized financing (including Guarantees) to increase its aggregate investment in EWGs and FUCOs to $4 billion (''EWG/FUCO Investment Limit''). The proposed EWG/FUCO Investment Limit is equal to approximately 200% of Progress Energy's consolidated retained earnings for the four quarters ended December 31, 2001. Accordingly, Progress Energy requests that the Commission issue an order under rule 53(c) to allow Progress Energy to utilize the proceeds from the issuance of equity and debt securities and to issue Guarantees, within the limits specified under the Financing Orders (or any order or orders subsequently issued that extend or renew Progress Energy's authorization under the Financing Orders), to finance investments in EWGs and FUCOs in an amount up to the proposed EWG/FUCO Investment Limit.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9628 Filed 4–18–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27519]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

April 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

[1] *See Progress Energy, Inc., et al.,* Holding Co. Act Release Nos. 27297 (Dec. 12, 2000), 27440 (Sept. 20, 2001), and 27500 (Mar. 15, 2002).

[2] Progress Energy, through an indirect wholly-owned subsidiary, Progress Ventures, Inc., holds all of the equity securities of seven EWGs, as defined in section 32 of the Act.

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 May 6, 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 May 6, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Xcel Energy, Inc., et al. (70–10059)

Xcel Energy, Inc., (''Xcel''), a registered holding company, and its wholly owned subsidiary, NRG Acquisition Company, LLC (''Acquisition Company,'' and together with Xcel, ''Applicants''), both located at 800 Nicollet Mall, Minneapolis, Minnesota 55402, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 11, 12(b), 32 and 33 of the Act and rules 51, 53, 54 and 58 under the Act. The Commission initially issued a notice of the filing of the application-declaration on March 15, 2002 (HCAR No. 27498) (''Initial Notice''). This supplemental notice supersedes the Initial Notice.[1]

Applicants propose to commence a tender or exchange offer (''Exchange Offer'') for Xcel to acquire the outstanding common stock of NRG Energy, Inc. (''NRG''),[2] a Delaware corporation and a majority owned indirect subsidiary of Xcel,[3] under the terms of a plan approved by Xcel's board of directors on April 4, 2002. In the Exchange Offer, Xcel proposes to acquire the outstanding publicly held shares of NRG, representing approximately a 26 percent minority interest, by exchanging NRG common stock for 0.50 shares of Xcel common stock in the Exchange Offer in a tax-free exchange.[4] Applicants also propose to acquire the balance of the shares of NRG's common stock not tendered in the Exchange Offer by means of a short-form merger permitted under Delaware law (''Short-Form Merger''). Xcel proposes to issue up to 33,394,564 shares of its common stock in exchange for NRG's common stock obtained in the Exchange Offer and Short-Form Merger.[5]

Under the terms of the Exchange Offer, in order to be successful, enough shares of NRG common stock will need to be tendered so that Xcel's ownership level of NRG reaches 90 percent. If the Exchange Offer results in 90 percent ownership, Wholesale will contribute enough shares of NRG common stock to Acquisition Company to permit Xcel to own at least 90 percent of NRG. Subsequently, Acquisition Company will merge through the Short-Form Merger with and into NRG. Each outstanding share of NRG common stock not acquired in the Exchange Offer will be converted in the Short-Form Merger into the right to receive 0.50 shares of Xcel in the Exchange Offer. After completion of the Exchange Offer and the Short-Form Merger, Xcel will own NRG as an indirect, wholly owned subsidiary. Xcel states that its investment in NRG will be included as part of Xcel's investment in exempt wholesale generators and foreign utility companies for purposes of sections 32 and 33 of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9629 Filed 4–18–02; 8:45 am]

BILLING CODE 8010–01–P

[1] A request for a hearing was filed by an intervenor (''Intervenor'') with the Commission on April 5, 2002, responding to the Initial Notice. On April 10, 2002, Applicants filed a response to the request for a hearing. On April 12, 2002, the Intervenor filed an additional request for a hearing raising an additional question.

[2] NRG is an independent power producer and a leading global energy company, primarily engaged in the acquisition, development, ownership and operation of power generation facilities and the sale of energy, capacity and related products. NRG's common stock is publicly traded and listed on the New York Stock Exchange under the symbol ''NRG.''

[3] Xcel indirectly owns shares of NRG's common stock through its wholly owned subsidiary, Xcel Energy Wholesale Group, Inc. (''Wholesale''). Xcel owns 147,604,500 shares of NRG's Class A Common Stock, each of which is convertible at any time into one share of NRG's Common Stock. The Class A Common Stock represents 74.3% of all of the outstanding shares of both classes of NRG's common shares combined. Because each share of Class A Common Stock entitles Xcel to ten votes, Xcel currently holds 96.7% of the combined voting power of all of NRG's outstanding common shares.

[4] Under the terms of the Exchange Offer, on February 14, 2002, the Xcel board of directors originally approved an exchange rate of 0.4846 shares, as noticed in the Initial Notice. Subsequently, on April 4, 2002, the Xcel board of directors announced an increase in the exchange ratio to 0.50 shares of Xcel common stock for each outstanding share of NRG common stock. This represents an increase of approximately 3.2%.

[5] The shares of Xcel's common stock to be issued in the Exchange Offer and the Short-Form Merger will come from Xcel's authorized but unissued shares.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25525; 812–12778]

Nations Fund Trust, et al.; Notice of Application

April 15, 2002.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION:

Applicants request an order to permit certain series of Nations Funds Trust (''NFST'') to acquire all of the assets and liabilities of certain series of Nations Fund Trust (''NFT''), Nations Fund, Inc. (''NFI''), and Nations Reserves (''NR'') (the ''Reorganization''). Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

Applicants: NFT, NFI, NR, NFST and Banc of America Advisors, LLC (''BA Advisors'').

Filing Dates: The application was filed on February 5, 2002, and amended on April 11, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 2002, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, One Bank of America Plaza, 101 South Tryon Street, Charlotte, NC 28255.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, (202) 942–0581, or Mary Kay Frech, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. NFT, a Massachusetts business trust, NFI, a Maryland corporation, and NR, a Massachusetts business trust, are open-end management investment companies registered under the Act. NFT currently offers 33 series, all of which will participate in the Reorganization. NFI offers four series, all of which will participate in the Reorganization. NR currently offers 13 series, all of which will participate in the Reorganization. The series of NFT, NFI, and NR are collectively referred to as the ''Acquired Funds.'' Four of the Acquired Funds are feeder funds (''Acquired Feeder Funds'') that invest all of their assets in corresponding master portfolios (''Master Portfolios'') of Nations Master Investment Trust (''NMIT''), a Delaware business trust registered under the Act as an open-end management investment company.

2. NFST, a Delaware business trust, is an open-end management investment company registered under the Act. NFST is organizing 37 new series (the ''Acquiring Funds,'' and together with the Acquired Funds, the ''Funds'').[1] Four of the Acquiring Funds will be feeder funds (''Acquiring Feeder Funds,'' together with the Acquired Feeder Funds, the ''Feeder Funds'') that will invest all of their assets in corresponding Master Portfolios of NMIT.[2]

3. BA Advisors is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment adviser for the Acquired Funds that are not Feeder Funds as well as the Acquired Feeder Funds' corresponding Master Portfolios. The Acquired Funds that are not Feeder Funds and the Acquired Feeder Funds' corresponding Master Portfolios are currently subadvised by Gartmore Global Partners (''Gartmore''), Marsico Capital Management, LLC (''Marsico Capital''), INVESCO Global Asset Management (N.A.), Inc. (''INVESCO''), Putnam Investment Management LLC (''Putnam''), Brandes Investment Partners, L.P. (''Brandes''), or Banc of America Capital Management, LLC (''BACAP''), which are investment advisers registered under the Advisers Act. BA Advisors also will be the investment adviser, and Gartmore, Marsico Capital, INVESCO, Putnam, Brandes, and BACAP also will be the investment subadvisers, respectively, for the Acquiring Funds that are not Feeder Funds, and the Acquiring Feeder Funds' corresponding Master Portfolios. BA Advisors, BACAP and Marsico Capital are wholly-owned subsidiaries of Bank of America Corporation. Gartmore, INVESCO, Putnam, and Brandes are not affiliated persons of BA Advisors or any other company in the Bank of America Group (as defined below).

4. Bank of America Corporation, Bank of America, N.A., and/or certain of their affiliates that are under common control with BA Advisors (the ''Bank of America Group'') hold of record, in their name and in the names of their nominees, more than 5% (and in some cases, more than 25%) of the outstanding voting securities of each of the Acquired Funds. Except for a limited number of securities of certain Acquired Funds that are held by companies of the Bank of America Group in their own accounts, such securities are held for the benefit of others in a trust, agency, custodial, or other fiduciary or representative capacity.

5. On October 10, 2001, the board of trustees of NFST (the ''Acquiring Funds'' Board'') and the boards of directors or trustees of NFT, NFI, and NR (the ''Acquired Funds' Boards,'' together with the Acquiring Funds' Board, the ''Boards''), including all of the directors or trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Members''), of the respective Funds, approved an agreement and plan of reorganization (each a ''Plan'' and collectively, the ''Plans'') on behalf of each Acquiring Fund and Acquired Fund. Under the Plans, on the date following the closing date (''Closing Date''), which is currently anticipated to be on or about May 10, 2002 (or May 17, 2002, for Nations Small Company Fund, Nations California Municipal Bond Fund and Nations Value Fund), each class of each Acquiring Fund will acquire all of the assets and liabilities of the corresponding class of the Acquired Fund in exchange for shares of designated classes of the Acquiring Fund that have an aggregate net asset value equal to the value of the class of the Acquired Fund's net assets, determined as of the Closing Date unless mutually agreed otherwise (''Valuation

[1] A registration statement for the 37 shell Acquiring Funds was filed with the SEC on October 16, 2001, and became effective on January 1, 2002.

[2] The Acquired Funds and the corresponding Acquiring Funds are: (i) NFT Nations Georgia Intermediate Municipal Bond Fund and NFT Nations Georgia Municipal Bond Fund into NFST Nations Georgia Intermediate Municipal Bond Fund; (ii) NFT Nations Maryland Intermediate Municipal Bond Fund and NFT Nations Maryland Municipal Bond Fund into NFST Nations Maryland Intermediate Municipal Bond Fund; (iii) NFT Nations North Carolina Intermediate Municipal Bond Fund and NFT Nations North Carolina Municipal Bond Fund into NFST Nations North Carolina Intermediate Municipal Bond Fund; (iv) NFT Nations South Carolina Intermediate Municipal Bond Fund and NFT Nations South Carolina Municipal Bond Fund into NFST Nations South Carolina Intermediate Municipal Bond Fund; (v) NFT Nations Tennessee Intermediate Municipal Bond Fund and NFT Nations Tennessee Municipal Bond Fund into NFST Nations Tennessee Intermediate Municipal Bond Fund; (vi) NFT Nations Texas Intermediate Municipal Bond Fund and NFT Nations Texas Municipal Bond Fund into NFST Nations Texas Intermediate Municipal Bond Fund; (vii) NFT Nations Virginia Intermediate Municipal Bond Fund and NFT Nations Virginia Municipal Bond Fund into NFST Nations Virginia Intermediate Municipal Bond Fund; (viii) NFT Nations Capital Growth Fund and NFT Nations Aggressive Growth Fund into NFST Nations Capital Growth Fund; (ix) NFT Nations Strategic Growth Fund and NR Nations Blue Chip Fund into NFST Nations Strategic Growth Fund; (x) NR Nations Government Reserves and NFT Nations Government Money Market Fund into NFST Nations Government Reserves; (xi) NR Nations Cash Reserves and NFI Nations Prime Fund into NFST Nations Cash Reserves; (xii) NR Nations Treasury Reserves and NFI Nations Treasury Fund into NFST Nations Treasury Reserves; (xiii) NR Nations Convertible Securities Fund and NFI Nations Equity Income Fund into NFST Nations Convertible Securities Fund; (xiv) NFT Nations Tax Exempt Fund into NFST Nations Tax-Exempt Reserves; (xv) NFT Nations Value Fund into NFST Nations Value Fund; (xvi) NFT Nations MidCap Growth Fund into NFST Nations MidCap Growth Fund; (xvii) NFT Nations LargeCap Index Fund into NFST Nations LargeCap Index Fund; (xviii) NFT Nations Managed Index Fund into NFST Nations Managed Index Fund; (xix) NFT Nations SmallCap Index Fund into NFST Nations SmallCap Index Fund; (xx) NFT Nations Short-Intermediate Government Fund into NFST Nations Short-Intermediate Government Fund; (xxi) NFT Nations Municipal Income Fund into NFST Nations Municipal Income Fund; (xxii) NFT Nations Short-Term Municipal Income Fund into NFST Nations Short-Term Municipal Income Fund; (xxiii) NFT Nations Intermediate Municipal Bond Fund into NFST Nations Intermediate Municipal Bond Fund; (xxiv) NFT Nations Short-Term Income Fund into NFST Nations Short-Term Income Fund; (xxv) NFT Nations Strategic Income Fund into NFST Nations Strategic Income Fund; (xxvi) NFT Nations Bond Fund into NFST Nations Bond Fund; (xxvii) NFT Nations Florida Intermediate Municipal Bond Fund into NFST Nations Florida Intermediate Municipal Bond Fund; (xxviii) NFT Nations Florida Municipal Bond Fund into NFST Nations Florida Municipal Bond Fund; (xxix) NFI Nations Small Company Fund into NFST Nations Small Company Fund; (xxx) NR Nations Municipal Reserves into NFST Nations Municipal Reserves; (xxxi) NR Nations Money Market Reserves into NFST Nations Money Market Reserves; (xxxii) NR Nations California Tax-Exempt Reserves into NFST Nations California Tax-Exempt Reserves; (xxxiii) NR Nations California Municipal Bond Fund into NFST Nations California Municipal Bond Fund; (xxxiv) NR Nations Emerging Markets Fund into NFST Nations Emerging Markets Fund; (xxxv) NR Nations International Value Fund into NFST Nations International Value Fund; (xxxvi) NR Nations International Equity Fund into NFST Nations International Equity Fund; and (xxxvii) NR Nations Intermediate Bond Fund into NFST Nations Intermediate Bond Fund.

Time''). The value of the assets will be determined in accordance with NFT's, NFI's, NR's, and NFST's then current valuation procedures stated in their prospectuses. On the date following each Closing Date, the Acquired Funds will make a pro rata distribution of shares of the Acquiring Fund to its shareholders and liquidate.

6. Applicants state that the Acquiring Funds will pursue investment objectives and follow principal investment strategies that are either identical or similar to those of the Acquired Funds. Each of the Acquired Funds has multiple classes of shares, and the respective Acquiring Fund will have the same classes of shares.[3] Applicants state that the distribution and shareholder servicing arrangements for the respective classes of the Acquired Fund are identical or similar to the arrangements of the corresponding classes of the Acquiring Fund. For purposes of calculating any deferred sales charge, each Acquired Fund's shareholders will be deemed to have held shares of the respective Acquiring Fund since the date the shareholder initially purchased shares of the Acquired Fund. No sales charge will be imposed in connection with the Reorganization. Each Plan provides that its respective Acquired Fund will be responsible for the expenses associated with the Reorganization. To the extent that such expenses exceed contractual total operating expense ratio caps in place for any such Acquired Fund, BA Advisors or any of its affiliates will bear such excess expenses.

7. The Boards, including all of the Independent Members, found that participation in the Reorganization is in the best interest of each of their respective Funds and that the interests of each Fund's existing shareholders will not be diluted as a result of the Reorganization. In approving the Reorganization, the Boards considered, among other things: (a) The potential effect of the Reorganization; (b) the respective expense ratios of the Funds; (c) the compatibility of the investment objectives and investment strategies of the Funds; (d) the terms and conditions of the Reorganization; and (e) the tax-free nature of the Reorganization. The Boards also noted that the Acquired Funds will be responsible for the expenses associated with the Reorganization, and considered potential benefits of the Reorganization to BA Advisors and its affiliates.

[3] In addition to the same classes of shares, some of the Acquiring Funds also will offer additional classes of shares.

8. Each Plan may be terminated by mutual written consent of the Acquiring Fund and the Acquired Fund at any time through the Closing Date. In addition, either Board may terminate the Plan under certain circumstances specified in the Plan. The consummation of the Reorganization is subject to the following conditions: (a) A registration statement under the Securities Act of 1933 for the Acquiring Funds will have become effective; (b) the Acquired Funds' shareholders will have approved their respective Plan; (c) applicants will have received exemptive relief from the SEC with respect to the issues in the application; (d) the Funds will have received an opinion of counsel concerning the tax-free nature of the Reorganization; and (e) the Acquired Fund will have declared a dividend to distribute substantially all of its investment company taxable income and net capital gain, if any, to its shareholders. Applicants agree not to make any changes to the Plan that materially affect the application without prior SEC staff approval.

9. Definitive proxy solicitation materials have been filed with the SEC and were mailed to the Acquired Funds' shareholders on or about January 14, 2002. A special meeting of the Acquired Funds' shareholders was held on March 27, 2002, at which time the Acquired Funds' shareholders approved their respective Plan.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of that person, acting as principal, from selling any security or other property to, or purchasing any security or other property from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants state that the Bank of America Group holds of record more than 5% (and in some cases, more than 25%) of the outstanding voting securities of each of the Acquired Funds. Because of this ownership, applicants state that the Funds may be deemed affiliated persons for reasons other than those set forth in rule 17a–8 and therefore unable to rely on the rule. Applicants request an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganization.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganization satisfy the standards set forth in section 17(b). Applicants note that the Boards, including all of the Independent Members, found that participation in the Reorganization is in the best interests of each Fund and that the interests of the existing shareholders of each Fund will not be diluted as a result of the Reorganization. Applicants also note that the Reorganization will be based on the Funds' relative net asset values.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9626 Filed 4–18–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45731; File No. SR–CBOE–2001–62]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Minimum Trading Increments for Spread, Straddle, and Combination Orders in Options on the S&P 500 Index

April 11, 2002.

On December 13, 2001, the Chicago Board Options Exchange, Inc. (''CBOE or ''Exchange'') filed with the Securities and Exchange Commission (''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 CBOE Rule 6.42, *Minimum Increments for Bids and Offers,* to require that bids and offers on spread, straddle, or combination orders in options on the S&P 500 Index (''SPX''), except for box spreads, be expressed in decimal increments no smaller than $0.05. In addition, the proposed rule change adds new interpretation .05 to CBOE to define the term ''box spreads.'' The proposed rule change was published for comment in the **Federal Register** on March 5, 2002.[3]

The Commission finds that the proposed rule change in consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of Section 6 of the Act[5] and the rules and regulations thereunder. The Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which, among other things, requires that the Exchange's rules be designed to promote just and equitable principles of trade and facilitate transactions in securities. The commission believes that requiring bids and offers, in spread, straddle, and combination orders in SPX options to be expressed in decimal increments no smaller that $0.05 should increase the ability of SPX options traders to execute these types of orders efficiently by reducing the number of steps necessary to break the orders down into the required contract quantities and prices.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–CBOE–2001–62) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9630 Filed 4–18–02; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 45479 (February 26, 2002), 67 FR 10026.

[4] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45746; File No. SR–NASD–97–44]

Self-Regulatory Organizations; Notice of Filing of Amendment Nos. 5 and 7 to a Proposed Rule Change by the National Association of Securities Dealers, Inc. Regarding the Eligibility of Claims for Arbitration

April 12, 2002.

On June 24, 1997, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiaries NASD Regulation, Inc. (''NASD Regulation'') and NASD Dispute Resolution, Inc. (''NASD Dispute Resolution''),[1] filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder[3] to amend NASD Rules 10304, 10307, and 10324 of the NASD's Code of Arbitration Procedure (''Code''). Notice of the proposed rule change and Amendment Nos. 1, 2, 3, and 4 thereto was published for comment in the **Federal Register** on January 6, 1998.[4] The NASD filed Amendment Nos. 5, 6, and 7 to the proposal on March 20, 1998; September 30, 1999; and March 15, 2002, respectively.[5] The Commission is publishing this notice of Amendment Nos. 5 and 7 to solicit comments on proposed rule change, as amended, from interested persons. To date, the Commission has received ten comments on the proposal.[6]

I. Text of Proposed Rule Change

The NASD has proposed amendments to the provisions of the Code that govern the eligibility of claims. The proposed rule change, as amended, is set forth below. The base text is taken from the proposed rule change that the Commission published for comment in 1998. Additional language proposed by the NASD in Amendment No. 5 is italicized; language deleted by Amendment No. 5 is in brackets.

10304. Time Limit on Eligibility of Claims for Arbitration; Procedures for Determining Eligibility Under This Rule

This rule describes when a claim must be filed in order to be eligible for arbitration, how and when parties may challenge the eligibility of claims, and the Director's role in determining eligibility.

(a) Claims eligible for arbitration and the Director's role in determining the eligibility of claims.

(1) Any filed claim is eligible for arbitration unless the Director decides it is ineligible. The Director may decide a claim is ineligible only if:

(A) A party that is responding to a claim, the responding party, asks the Director to decide that the claim is ineligible; and

[1] The original rule filing and Amendment Nos. 1 to 6 were filed by the NASD through NASD Regulation, of which the Office of Dispute Resolution (''ODR'') was a part before July 9, 2000. On that date, ODR became a separate, wholly owned subsidiary of the NASD, known as NASD Dispute Resolution, Inc. The NASD filed Amendment No. 7 through NASD Dispute Resolution.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 39487 (December 23, 1997), 63 FR 588.

[5] *See* letter to Katherine A. England, Division of Market Regulation (''Division''), Commission, from John M. Ramsey, Vice President and Deputy General Counsel, NASD Regulation, dated March 18, 1998 (''Amendment No. 5''); letter to Richard C. Strasser, Division, Commission dated September 27, 1999 (''Amendment No. 6''); letter to Florence Harmon, Division, Commission, from Laura Gansler, Counsel, NASD Dispute Resolution, dated March 15, 2002 (''Amendment No. 7''). As explained in Section III *infra,* the Commission is not seeking comment on Amendment No. 6 because it has been superceded by Amendment No. 7.

[6] *See* letter to Margaret McFarland, Deputy Secretary, Commission, from Seth E. Lipner, Deutsch & Lipner, dated December 11, 1997; letter to Commission from Donald G. McGrath, Falk & Siemer, dated December 29, 1997; letter to Jonathan G. Katz, Secretary, Commission, from Scot D. Bernstein, dated January 22, 1998; letter to Jonathan G. Katz, Secretary, Commission, from William J. Fitzpatrick, dated January 23, 1998; letter to Jonathan G. Katz, Secretary, Commission, from Paul Dubow, Chairman, Arbitration Subcommittee, Securities Industry Association (''SIA''), dated January 27, 1997; letter to Jonathan G. Katz, Secretary, Commission, from Morton Levy, dated January 27, 1998; letter from Philip M. Aidikoff, President, Public Investors Arbitration Bar Association, to Linda Feinberg, President, NASD Dispute Resolution, dated March 8, 2002; e-mail to Catherine McGuire and Robert Love, Division, Commission, from C. Thomas Mason, dated March 20, 2002; e-mail to Catherine McGuire, Division, Commission, from Jerry Stanley, dated March 20, 2002; e-mail to Catherine McGuire and Robert Love, Division, Commission, from Joel A. Goodman, *et al.,* dated March 22, 2002.

(B) The Director determines that the claim is based on an occurrence or event that took place 6 years or more before the claim was filed.

(2) The 6 year eligibility period in paragraph (a)(1)(B) will be extended only for the length of time that a claim is pending in court. (The eligibility period will not be extended during any period in which a responding party fraudulently concealed facts from the claimant.)

(b) Procedures for challenging eligibility and new time periods for answering and delivering documents.

(1) If a responding party wants the Director to decide whether a claim is ineligible:

(A) A responding party must serve a written request on the Director and all the other parties to the arbitration; and

(B) A responding party must serve the written request no later than 30 days after the responding party was served the Statement of Claim. (Rule 10314(c) explains how to serve a document.)

(2) To oppose the written request, a party must serve a written response on the Director and all the parties. This written response must be served no later than 14 days after the party was served the written request.

(3) The Director will try to determine eligibility issues within 30 days of receiving the written request. The Director will serve the decision on all the parties.

(4) The Director's determination is final. No party to the arbitration may seek review of the determination in any forum, in an action to vacate the arbitration award, or in any other proceeding.

(5) If a claimant amends a Statement of Claim filed in arbitration, a responding party may challenge the eligibility of any new claim in the amended Statement of Claim.

(6) The parties do not have to file an answer or any other documents until 45 days after the Director serves the decision on eligibility.

(c) Challenges to eligibility when a claimant files a claim or claims in court.

(1) If a court orders a claim to arbitration at the request of the responding party, then the responding party may not challenge the claim's eligibility in arbitration.

(2) The responding party may challenge the eligibility of a claim in arbitration that a claimant initially filed in court when:

(A) The court orders the claim to arbitration and the responding party did not request the order, or

(B) The claimant moves the claim from court to arbitration without a court order.

(d) Determinations of eligibility and statutes of limitation.

(1) All statutes of limitation [or any other time limitations that may apply to a claim] are extended from the time a Statement of Claim is filed until 45 days after the Director serves a decision on eligibility or the Association no longer has jurisdiction over a claim, whichever is later. The parties agree that they will not assert a statute of limitations defense in court that is inconsistent with this subparagraph.

(2) The Director's determination that a claim is eligible or ineligible does not determine whether a claim was filed later than the time allowed by a statute of limitations. The parties may still assert to the arbitrators or the court that has jurisdiction over a claim any statute of limitations defense that applies to a claim.

(3) A claimant may pursue a claim in court even if a court or the Director determines the claim is ineligible for arbitration.

(e) Consolidation of eligible and ineligible claims. If the Director decides that one or more of the claims is not eligible for arbitration, a customer claimant may:

(1) Pursue all of the claims included in the Statement of Claim in court; or

(2) Pursue the eligible claims in arbitration and the ineligible claims in court.

(f) Definitions.

(1) ''Claim''—For purposes of this Rule, the term ''claim'' means any dispute or controversy described in a Statement of Claim *or answer,* including Counter-claims, Cross-claims, and Third-party claims, for which the claimant is seeking any form of relief, damages or other remedy.

(2) ''Occurrence or event''—For purposes of this Rule, the term ''occurrence or event'' means:

(A) The date of the transaction upon which the claim is based; or,

(B) If the claim does not arise from a transaction, the date of the occurrence of the act or omission upon which the claim is based.

* * * * *

10307. Reserved

* * * * *

10324. Interpretation of Provisions of Code and Enforcement of Arbitrator Rulings

The arbitrators may interpret and apply the provisions of this Code and take appropriate action to obtain compliance with any ruling that they make, except as provided in other provisions of this Code. The interpretations and actions of the arbitrators to obtain compliance shall be final and binding upon the parties.

* * * * *

III. Amendment Nos. 5, 6, and 7 [7]

In Amendment No. 5, the NASD responded to comments on the proposal and made two minor revisions to the proposed rule text in response to points raised by one commenter. First, the NASD amended proposed NASD Rule 10304(d)(1), which is largely a recodification of current NASD Rule 10307(a), by deleting the words ''or any other time limitations that may apply to a claim.'' The NASD explained, however, that it intended for the term ''statute of limitations'' to be read broadly to include all time limitations that might apply to a claim under applicable law. Second, in proposed NASD Rule 10304(f)(1), the NASD revised the definition of ''claim'' by inserting the words ''or answer'' following ''Statement of Claim.''

In Amendment No. 6, the NASD stated that the effective date of the proposed rule change would be 120 days after the Commission had taken final action on the last of three related rule filings: SR–NASD–97–44 (the present proposal), SR–NASD–97–47,[8] and SR–NASD–98–74.[9] The NASD stated that, to avoid multiple amendments of customer account agreements as a result of these three

[7] These amendments may be viewed on the website of NASD Dispute Resolution. *See* http://www.nasdadr.com/rule_filings_index.asp#97–44.

[8] *See* Securities Exchange Act Release No. 39371 (November 26, 1997), 62 FR 64428 (December 5, 1997) (amendments to the Code relating to punitive damages).

[9] *See* Securities Exchange Act Release No. 42160 (November 19, 1997), 64 FR 66681 (November 29, 1999). SR–NASD–98–74 would, in relevant part, amend NASD Rule 3110(f) governing the use of predispute arbitration agreements with customers to coincide with the proposed amendments to NASD Rule 10304. First, it would amend the language that NASD members are required to place in predispute arbitration contracts to acknowledge that, under the rules of the arbitration forum, parties may sue each other in court for certain claims. *See* proposed amendments to NASD Rule 3110(f)(1)(A) and (F). SR–NASD–98–74 also would prohibit NASD members from including in any predispute arbitration agreement any condition that ''limits the ability of a party to file any claim in court permitted to be filed in court under the rules of the forums in which a claim may be filed under the agreement.'' This provision would incorporate within parties' arbitration agreements the ability to litigate claims that the Director had determined to be ineligible for arbitration (along with otherwise eligible claims) under the bifurcation provision of proposed NASD Rule 10304(e). *See* proposed amendments to NASD Rule 3110(f)(4)(iii). Finally, SR–NASD–98–74 would incorporate within parties' agreements the proposed change in NASD Rule 10304(c) that would require members to arbitrate all claims included in a complaint that a member had asked a court to compel to arbitration, even if any of those claims were over six years old. *See* proposed amendment to NASD Rule 3110(f)(5).

proposed rule changes, all of them should take effect at the same time, and that the effective date of the rules should provide enough time for member firms to replace their customer agreements.

In Amendment No. 7, the NASD again revised the proposed effective date. The NASD has now stated that it would de-link the effective date of this proposed rule change from the two others. The NASD also stated that it would announce the effective date of the proposed rule change in a Notice to Members following final action by the Commission, and that the effective date would be at least 30 days after publication of a Notice to Members.[10] Because Amendment No. 7 supercedes Amendment No. 6, the Commission is not soliciting comment on the latter.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, as amended, including whether the proposal is consistent with the Act. In particular, the Commission is soliciting comment on the issues highlighted below:

Existing NASD Rule 10304 does not provide guidance regarding who makes the determination of eligibility, when such determinations should be made, and under what procedures.[11] This has resulted in protracted and expensive litigation proceedings. The proposed rule is based on the current rule, continuing with the basic premise that claims older than six years are not appropriate for arbitration. The proposed rule change states that it would address defects in the existing rule, in part, by narrowing the outright ban on older cases (because the ban would not be enforced unless a responding party raised the provision within the time established by the rule), and by appointing the Director to decide whether the Statement of Claim asserts that claims are within the six-year time limitation. Proposed NASD Rule 10304(b)(4) would provide that the Director's decision regarding the eligibility of a claim is final, and that no party to the arbitration may seek review of the determination in any forum, in an action to vacate the arbitration award, or in any other proceeding. Decisions on eligibility that have been made by arbitrators have been subject to motions to vacate under the Federal Arbitration Act.[12] Under the proposed rule change eligibility determinations would no longer be subject to such motions. Given this background:

1. Should the proposed rule explicitly provide for additional review of the Director's determination on eligibility, for example, to the NASD Dispute Resolution Board of Governors?

2. In the absence of review of particular eligibility determinations under the proposed rule, does NASD Dispute Resolution governance and oversight by the Commission provide sufficient assurance of the integrity of eligibility determinations?

Broker-dealers are compelled by existing NASD Rule 10301(a) to arbitrate certain customer claims upon demand. NASD member firms generally require customers, in their account opening documents, to agree that disputes must be arbitrated. Under proposed NASD Rule 10304(d)(3), ''[a] claimant may pursue a claim in court even if a court or the Director determines the claim is ineligible for arbitration.'' Further, proposed NASD Rule 10304(e) would allow a claimant to consolidate eligible and ineligible claims in court, or to bifurcate the claims, pursuing some in arbitration or others in court. In a companion filing, the NASD has proposed to amend NASD Rule 3110(f) governing the use of predispute arbitration agreements with customers to implement the changes to NASD Rule 10304 proposed in the present filing.[13] In light of the above:

3. Is it reasonable for the NASD to permit its members to restrict the availability of the NASD's arbitration forum for a claim based on an occurrence or event that took place six years or more before the claim was filed when the possible consequences include: (a) The bifurcation of a particular customer's claims into court and arbitration proceedings; (b) the resolution of all of a particular customer's claims in court proceedings rather than through arbitration; and (c) the clear rejection of the ''election of remedies'' doctrine, providing claimants with the ability to pursue a claim based on an occurrence or event that took place six years or more before the claim was filed in a court with jurisdiction over a claim?

4. Is it reasonable for claims based upon state or common law that are based on an occurrence or event that took place six years or more before the claim was filed to be directed to courts with jurisdiction over the law that gave rise to the claim?

5. Would proposed NASD Rules 10304(d)(3) and 10304(e), taken together with the amended arbitration agreements required under the proposed changes to NASD Rule 3110(f), be sufficient to convince courts that the parties have agreed to allow certain claims to be pursued in court, even if the Director had found them ineligible for arbitration?

The proposed rule change carries forward the principle from existing NASD Rule 10304 that claims older than six years will generally be ineligible for arbitration. Under proposed NASD Rule 10304(a)(1)(B), the Director may find a claim ineligible if the claim were based on an ''event or occurrence that took place 6 years or more before the claim was filed.'' Under proposed NASD Rule 10304(f)(2), an ''occurrence or event'' would mean, ''if the claim does not arise from a transaction, the date of the occurrence of the act or omission upon which the claim is based.''[14]

6. Does this definition of ''occurrence or event'' require more specificity?

7. Is the language of the proposed rule change sufficiently clear to allow the Director to determine that a claim is eligible when the allegations that form the basis of the claim occurred within the six-year time limitation if they are related to a transaction that occurred more than six years ago?

Statutes of limitations for claims under the federal securities laws generally require that a plaintiff commence its action within one year after the discovery of the facts that constitute the violation and within three years after the occurrence of such violation.[15] Proposed NASD Rule 10304(d)(1) would provide: ''All statutes of limitation are extended from the time a Statement of Claim is filed until 45 days after the Director serves a decision

[10] NASD Dispute Resolution also stated that NASD Regulation would file a similar amendment with respect to SR–NASD–98–74.

[11] Currently, Rule 10324 provides, in part, that the arbitrators shall be empowered to interpret and determine the applicability of all provisions under the Code and that such interpretations are binding on the parties. The Commission believes that this rule is a clear indication that arbitrators should apply Rule 10304, and some courts have agreed with that conclusion. Other courts, however, disagree.

[12] *See* 9 U.S.C. 10.

[13] *See supra* note 9.

[14] Proposed NASD Rule 10304(a)(2) would state: ''The eligibility period will not be extended during any period in which a responding party fraudulently concealed facts from the claimant.''

[15] See, e.g., section 9(e) of the Act, 15 U.S.C. 78i(e); section 18(c) of the Act, 15 U.S.C. 78r(c); section 13 of the Securities Act of 1933, 15 U.S.C. 77m; *Lampf, Pleva, Lipkind, Prupis & Petigrow* v. *Gilbertson,* 501 U.S. 350 (1991) (adopting Section 9(e) limitation period for claims implied under Section 10(b) of the Act, 15 U.S.C. 78j(b)). *But see, e.g.,* Section 16(b) of the Act, 15 U.S.C. 78p(b) (claims for disgorgement of unlawful profits must be brought within two years after the date such profit was realized); Section 20A(b)(4) of the Act, 15 U.S.C. 78t–1 (private action based on liability to contemporaneous traders for insider trading must be brought within five years after the date of the last transaction that is the subject of the violation).

on eligibility or the Association no longer has jurisdiction over a claim, whichever is later. The parties agree that they will not assert a statute of limitations defense in court that is inconsistent with this subparagraph.''[16]

8. Do proposed NASD Rule 10304(d)(1) and the proposed amendments to NASD Rule 3110(f) provide reasonable assurances to the parties regarding the possibility that a statute of limitations could expire during the period of time in which the Director is making an eligibility determination?

9. Should proposed NASD Rule 10304 be amended to provide that a claimant may request an expedited determination of eligibility where the claimant has concerns regarding the possible expiration of a statute of limitations?

* * * * *

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 2 submissions should refer to File No. SR–NASD–97–44 and should be submitted by May 10, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9586 Filed 4–18–02; 8:45 am]

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[16] Current NASD Rule 10307(a) provides: ''Where permitted by applicable law, the time limitations which would otherwise run or accrue for the institution of legal proceedings shall be tolled where a duly executed Submission Agreement is filed by the Claimant(s). The tolling shall continue for such period as the Association shall retain jurisdiction upon the matter submitted.'' This provision would be replaced by proposed NASD Rule 10304(d)(1).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45745; File No. SR–OCC–2001–04]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to Forms of Margin Collateral

April 12, 2002.

On March 9, 2001, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') and on August 24, 2001, amended proposed rule change SR–OCC–2001–04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on November 13, 2001.[2] On April 8, 2002, OCC filed a second amendment.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change expands the types of debt securities that clearing members may deposit with OCC as margin collateral. In light of the declining supply of U.S. Treasury bills, notes, and bonds, the rule change allows OCC clearing members to deposit as margin debt securities issued by Congressionally chartered corporations (government sponsored enterprise or ''GSE'' debt securities).

To be acceptable as margin collateral, the GSE debt securities must be approved by OCC's membership/margin committee. OCC's membership/margin committee has approved certain non-callable debt securities issued by two GSEs, the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae), as being eligible for margin deposit.[4] Both companies are stockholder-owned, Congressionally chartered corporations with the public purpose of increasing the supply and availability of home mortgages.

In 1998, Freddie Mac initiated its Reference Debt Program (''RDP'') in order to finance the mortgages it retains.[5] Through the RDP program, Freddie Mac sells large issues of long and short-term non-callable debt (*i.e.,* bills, notes, and bonds) to provide investors with high quality debt securities.[6] The debt securities generally are distributed through a group of participating dealers that also support secondary trading in the securities. To ensure broad based dealer participation, Freddie Mac limits the allocation to any one dealer to 35 percent of the offered amount. The debt securities are offered according to a predetermined schedule and issued in sufficient quantities to provide investors with liquid secondary markets. The RDP debt securities issued by Freddie Mac are the general obligations of the company and are not secured by the full faith and credit of the U.S. Government. Not all RDP debt has been rated. However, all such debt that has been rated has received S&P and Moody's top ratings. Domestic clearing and settlement may be done through organizations participating in one or more U.S. clearing systems, principally the book entry system operated by the Board of Governors of the Federal Reserve System. As a result, OCC will be readily able to perfect its security interest in these securities.

Also in 1998, Fannie Mae launched the Benchmark Debt Program (BDP), which is its debt financing initiative.[7] The BDP model is almost identical to the RDP model. Through the BDP, Fannie Mae sells large issues of non-callable long and short-term debt securities that are the general obligations of the company and are not secured by the full faith and credit of the U.S. Government.[8] Other than the total value of securities issued in the programs, the most notable difference between the RDP and BDP is that all BDP securities have been rated and have received Moody's and S&P's top credit ratings.

These debt securities issued by Freddie Mac and Fannie Mae are liquid, marketable, and of high credit quality which makes them an appropriate form of margin collateral. These characteristics help ensure that OCC will be readily able to liquidate the securities and to realize their market value in order to cover any clearing member default. Securities haircuts,

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45021 (November 5, 2001), 65 FR 56876.

[3] The amendment was technical in nature and did not affect the substance of the proposal as published for notice.

[4] OCC will advise the Commission staff of additional GSE debt securities that the membership/margin committee approves for deposit as margin collateral.

[5] Freddie Mac's web site, *www.freddiemac.com,* provides a detailed description of the RDP program.

[6] At the end of 2000, the total outstanding notional value of non-callable RDP bonds and notes approached $100 billion while the outstanding notional value of the non-callable RDP bills approached $600 billion.

[7] Fannie Mae's web site, *www.fanniemae.com,* provides a detailed description of its BDP program.

[8] At the end of 2000, the total outstanding notional value of non-callable BDP bonds and notes approached $180 billion. The outstanding notional value of BDP bills approached $350 billion in notional value at the end of 2000.

similar to those used for U.S. Government securities deposited as margin, have been prescribed to cover market and liquidity risk.[9]

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[10] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that OCC's rule change meets this requirement because it allows OCC's clearing members to deposit high quality, liquid debt securities with OCC as margin collateral in a manner that should provide OCC with sufficient safeguards to protect the securities and funds that are within its custody or control or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2001–04) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9631 Filed 4–18–02; 8:45 am]

BILLING CODE 8010–01–P

[9] OCC is also making technical changes to Rule 604(b)(1) in order to more accurately describe the maturity periods of Government securities for purposes of valuation as margin collateral.

[10] U.S.C. 78q–1(b)(3)(F).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3392]

State of Kansas; (Amendment #2)

In accordance with information received from the Federal Emergency Management Agency, dated April 9, 2002, the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to April 22, 2002.

All other information remains the same, i.e., the deadline for filing applications for economic injury is November 7, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 11, 2002.

Allan I. Hoberman,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–9539 Filed 4–18–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3393]

State of Missouri; (Amendment #2)

In accordance with information received from the Federal Emergency Management Agency, dated April 9, 2002 the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to April 22, 2002.

All other information remains the same, i.e., the deadline for filing applications for economic injury is November 7, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 11, 2002.

Allan I. Hoberman,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–9538 Filed 4–18–02; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, the Social Security Administration (SSA) is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collections should be submitted to the SSA Reports Clearance Officer at the following address: (SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collections would be most useful if received by the Agency within 60 days from the date of this publication. You can obtain a copy of the collection instruments by calling the SSA Reports Clearance Officer at (410) 965–0454, or by writing to the address listed above.

1. Statement Regarding Date of Birth and Citizenship—0960–0016

The Social Security Administration (SSA) collects information on Form SSA–702 when preferred or other evidence is not available to prove age for an individual applying for Social Security benefits. The respondents are Social Security benefit applicants who need to establish their dates of birth as a factor of entitlement or U.S. citizenship as a factor of payment.

Number of Respondents: 1,200.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 200 hours.

2. Request for Reconsideration—Disability Cessation—0960–0349

Form SSA–789 collects information used by SSA to schedule disability hearings and to develop additional evidence/information for claimants whose disability is found to have ceased, not to have existed, or is no longer disabling. The information will also be used to determine if an interpreter is needed for the disability hearing. The respondents are claimants under Titles II & XVI of the Social Security Act who wish to request reconsideration of disability cessation.

Number of Respondents: 49,000.

Frequency of Response: 1.

Average Burden Per Response: 12–15 minutes.

Estimated Annual Burden: 10,290 hours.

3. Self-Employment/Corporate Officer Questionnaire—0960–0487

Form SSA–4184 is used by SSA to develop earnings and corroborate a claimant's allegations regarding retirement when the claimant is self-employed or a corporate officer. The information collected is used to determine the benefit amount. The respondents are self-employed individuals and corporate officers.

Number of Respondents: 20,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 6,667 hours.

4. Disability Report Update—0960–0511

Form SSA–455 or Form SSA–455–OCR–SM is used by SSA to collect information when the continuing disability review (CDR) diary of a recipient of SSA-administered benefits, based on disability, has matured or there is an indication of possible medical improvement (e.g., a report of return to work or a physician's clearance for work). The information collected from beneficiaries is reviewed by technicians, including specialists in the evaluation of work and earnings and in disability adjudication, to determine if a full medical CDR should be processed or deferred to a later date. The respondents are recipients of benefits, based on disability, under title II and/or XVI of the Social Security Act, as amended.

Number of Respondents: 702,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 175,500 hours.

5. Farm Arrangement Questionnaire—0960–0064

SSA needs the information collected on Form SSA–7157–F4 to determine if farm rental income may be considered self-employment income for Social Security coverage purposes. The respondents are individuals alleging self-employment income from renting land for farming activities.

Number of Respondents: 38,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 19,000 hours.

6. Statement for Determining Continuing Eligibility, Supplemental Security Income Payment—0960–0145—Forms SSA–8202–F6 and SSA–8202–OCR–SM

SSA uses form SSA–8202–F6 to conduct low- and middle-error-profile (LEP–MEP) telephone or face-to-face redetermination (RZ) interviews with Supplemental Security Income (SSI) recipients and representative payees. The information collected during the interview is used to determine whether SSI recipients have met and continue to meet all statutory and regulatory requirements for SSI eligibility and whether they have been, and are still receiving, the correct payment amount. Form SSA–8202–OCR–SM (Optical Character Recognition-Self Mailer) collects information similar to that collected on Form SSA–8202–F6. However it is used exclusively in LEP RZ cases on a 6-year cycle. The respondents are recipients of SSI benefits or their representative payees.

	Respondents	Frequency of response	Average burden per response (min.)	Estimated annual burden (hours)
SSA–8202–F6	920,000	1	18	276,000
SSA–8202–OCR–SM	800,000	1	9	120,000
Total burden				396,000

7. Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—0960–0416

SSA uses the information collected on form SSA–8203–BK for high-error-profile (HEP) redeterminations of disability to determine whether SSI recipients have met and continue to meet all statutory and regulatory requirements for SSI eligibility and whether they have been, and are still receiving, the correct payment amount. The information is normally completed in field offices by personal contact (face-to-face or telephone interview) using the automated Modernized SSI Claim System (MSSICS). The respondents are recipients of title XVI SSI benefits.

Number of Respondents: 920,000.

Frequency of Response: 1.

Average Burden Per Response: 18 minutes.

Estimated Annual Burden: 276,000 hours.

Dated: April 15, 2002.

Liz Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–9534 Filed 4–18–02; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Tier II Environmental Impact Statement: Boone County, Missouri

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Tier II Environmental Impact Statement (EIS) will be prepared for proposed improvement to the I–70 highway corridor in Boone County, Missouri.

FOR FURTHER INFORMATION CONTACT: Peggy Casey, Environmental Projects Engineer, FHWA Division Office, 209 Adams Street, Jefferson City, MO 65101, Telephone: (573) 638–2620; or Mr. Dave Nichols, Director of Project Development, Missouri Department of Transportation, PO Box 270, Jefferson City, MO 65102, Telephone: (573) 751–4586.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Department of Transportation (MoDOT), will prepare a Tier II EIS For a proposed project to improve I–70 in Boone County Missouri from Route BB (milepost 115), to Route Z (milepost 133) a distance of 18 miles. The project area includes the City of Columbia. In accordance with the National Environmental Policy Act, a Tier I EIS was completed for the I–70 corridor from Kansas City to St. Louis. The preferred alternative identified in the Tier I Final EIS and Record of Decision was to widen I–70.

The proposed action will accomplish the following goals: (1) Increase roadway capacity, (2) increase traffic safety, (3) upgrade roadway design features, and (4) improve the efficient movement of goods.

Alternatives under consideration include (1) no build, (2) improve existing I–70, and (3) an off alignment build alternative.

Information has been issued to local officials and other interested parties during the Tier I study. As part of the Tier I EIS scoping process, an interagency scoping meeting was held with federal and state agencies. Agency scoping and coordination with federal, state, and local agencies will continue. Public information meetings, and community official meetings will be held to solicit public and agency input

to engage the regional community in the decision making process. A location public hearing will be held to present the findings of the Tier II Draft EIS (DEIS). The DEIS will be available for public and agency review and comment prior to the public hearing. A Department of the Army Section 404 permit may be required.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or MoDOT at the addresss provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: April 3, 2002.

Peggy J. Casey,

Environmental Projects Engineer, Jefferson City.

[FR Doc. 02–9584 Filed 4–18–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34187]

Central Railroad Company of Indiana—Joint Relocation Project Exemption—CSX Transportation, Inc.

Central Railroad Company of Indiana (CIND) filed a notice of exemption under 1180.2(d)(5) to participate in a joint relocation project with CSX Transportation, Inc. (CSXT). CIND, upon commencing trackage rights operations over CSXT, will abandon service over its 1-mile line between milepost 24.6 at Dearborn Tower and milepost 25.6 at West Lawrenceburg Interlocking (the Line). The transaction was scheduled to be consummated on or after March 29, 2002, the effective date of the exemption.

CIND owns and operates approximately 81 miles of rail line located between milepost 0.0 (Wood Street) at Cincinnati, OH, and milepost 81.0 at Mack, near Shelbyville, IN. CIND also has overhead trackage rights over the 76.2 miles of CSXT rail line located between milepost 81.0, at Shelbyville, and milepost 35.3, at Frankfort, IN. CIND also operates under trackage rights from CSXT pursuant to a February 9, 1996 agreement from the connection of CIND on CSXT's connection track T–1415(D)(1) at Ownership Point (O.P.) 1+53 at North Bend, OH, near CSXT's milepost BC 15 and CSXT's connection with CIND on CSXT's connection track T–2 at O.P. 1144+96.2 at Lawrenceburg, IN, near CSXT's milepost 22, a distance of approximately 7 miles.

CIND is abandoning the Line in order to convey the underlying real estate to the City of Lawrenceburg for a public development project. CSXT granted CIND trackage rights over a portion of CSXT's Indiana Subdivision, milepost BC 21.54 at East Lawrenceburg, IN, to milepost BC 23.3 at West Lawrenceburg, IN, a distance of about 1.7 miles. CIND will also construct turnouts within the current railroad right-of-way from the CSXT track at milepost BC 22.3 ± to serve Seagram's Distillery, and at milepost BC 22.9 ± to serve American Electric Power. The only other shipper served by CIND over the line being abandoned is Gibbco. Gibbco is located on property of American Electric Power (AEP). Gibbco will be able to load and unload on new track being constructed with the AEP facility in order to access CIND on its relocated track.

The proposed joint relocation project will not disrupt service to shippers.

CIND is cooperating with the City of Lawrenceburg in a public development project while continuing to serve its customers.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require a separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. *See City of Detroit* v. *Canadian National Ry. Co., et al.,* 9 I.C.C.2d 1208 (1993), *aff'd sub nom. Detroit/Wayne County Port Authority* v. *ICC,* 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T. & I.R.—Trackage Rights,* 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34187, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Boards decisions and notices are available on our website at www.stb.dot.gov.

Decided: April 15, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–9641 Filed 4–18–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of Program Services within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form BQ–2, Part 1: Report of Foreign Currency Liabilities to, and Claims on, Foreigners of Depository Institutions, Brokers, Dealers, and Their Domestic Customers; Part 2: Report of Customers' Foreign Currency Liabilities to Foreigners.

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5457 MT, 1500 Pennsylvania Avenue NW, Washington DC 20220. In view of delays in mail delivery due to recent events, please also notify Mr. Wolkow by e-mail (*dwight.wolkow@do.treas.gov*), FAX

(202–622–7448) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms webpage, *http://www.treas.gov/tic/forms.htm.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Titles: Treasury International Capital Form BQ–2, Part 1: Report of Foreign Currency Liabilities to, and Claims on, Foreigners of Depository Institutions, Brokers, Dealers, and Their Domestic Customers; Part 2: Report of Customers' Foreign Currency Liabilities to Foreigners.

OMB Control Number: 1505–0020.

Abstract: Form BQ–2 is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and is designed to collect timely information on international portfolio capital movements. Form BQ–2 is a quarterly report that covers the liabilities to and claims on foreigners of banks, other depository institutions, brokers and dealers, and their customers' claims and liabilities with foreigners, where all claims and liabilities are denominated in foreign currencies. This information is necessary for compiling the U.S. balance of payments accounts, for calculating the U.S. international investment position, and for formulating U.S. international financial and monetary policies.

Current Actions: (a) Bank Holding Companies and Financial Holding Companies (BHCs/FHCs) will each consolidate the BHC/FHC and all subsidiaries, OTHER THAN banking or broker or dealer subsidiaries, and file TIC Form CQ–1 (banks and brokers and dealers will continue to file TIC–B series reports). This treatment is designed to reduce reporting burdens since the TIC C reports are less detailed and are filed only quarterly. (b) Depository institutions, brokers and dealers will report most cross-border positions with affiliated foreigners (including affiliates of parent organizations) exclusive of positions in the form of long-term securities or derivative contracts. (c) All reporters will have to report brokerage balances, according to a revised description of brokerage balances. (d) To eliminate double counting, all negotiable liabilities (certificates of deposit of any maturity and other short-term negotiable securities) are to be reported as ''customers' '' items on Form BQ–2 and excluded from the reporter's own liabilities, even if the ''customer'' is the reporter. (e) More claims and liabilities of the domestic customers of depository institutions, brokers and dealers will be reportable. The title of the BQ–2 report is changed from ''Custody'' claims and liabilities to ''Customers' '' claims and liabilities to reflect the fact that items other than traditional ''custody'' items are included. Non-custody items will include offshore sweep agreements, loans to U.S. residents held at managed foreign offices, loans of foreigners to U.S. residents serviced by the reporter, and syndicated loans sold overseas for which the reporter was the lead in the syndicate. (f) The period of time a reporter has to submit reports once the exemption level is exceeded has been changed to the remainder of the current calendar year. (g) In Form BQ–2, a new column will be added for separate reporting of non-negotiable deposits held by foreigners. (h) In Form BQ–2, two memorandum cells will be added for negotiable CDs of foreigners. (i) In Form BQ–2, a memorandum cell will be added for nonnegotiable short-term securities held by foreigners. (j) In Form BQ–2, two new memorandum cells will be added for short-term securities of foreigners. (k) In Form BQ–2, a memorandum row for repurchase agreements and resale agreements will be added. (l) These changes will be effective as of February 28, 2003.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form BQ–2 (1505–0020)

Estimated Number of Respondents: 120.

Estimated Average Time per Respondent: Six and one/quarter (6.25) hours per respondent per filing. This average time varies from 10 hours for the approximately 30 major reporters to 5 hours for the other reporters.

Estimated Total Annual Burden Hours: 3,000 hours, based on four reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the requests for OMB approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: whether Form BQ–2 is necessary for the proper performance of the functions of the Office, including whether the information collected has practical uses; the accuracy of the above burden estimates; ways to enhance the quality, usefulness, and clarity of the information to be collected; ways to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data; and estimates of capital or start-up costs of operation, maintenance, and purchases of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 02–9604 Filed 4–18–02; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 12, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 20, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1031.

Form Number: IRS Form 8697.

Type of Review: Extension.

Title: Interest Computation Under the Look-Back Method for Completed Long-Term Contracts.

Description: Taxpayers required to account for all or part of any long-term contract entered into after February 28, 1986, under the percentage of completion method must use Form 8697 to compute and report interest due or to be refunded under Internal Revenue Code (IRC) section 460(b)(3). The IRS uses Form 8697 to determine if the interest has been figured correctly. Taxpayers may compute interest using the actual method (Part I) or the Simplified Marginal Impact Method (Part II).

Respondents: Business or other for-profit individuals or households.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Part I	Part II
Recordkeeping	8 hr., 36 min	9 hr., 19 min
Learning about the law or the form	2 hr., 22 min	2 hr., 5 min
Preparing, copying, assembling and sending the form to the IRS	2 hr., 37 min	2 hr., 19 min

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 68,340 hours.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503. (202) 395–7860.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 02–9575 Filed 4–18–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Claim—Alcohol, Tobacco and Firearms Taxes.

DATES: Written comments must be received on or before June 18, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dave Royalty, Chief, Revenue Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8200.

SUPPLEMENTARY INFORMATION:

Title: Claim—Alcohol, Tobacco and Firearm Taxes.

OMB Number: 1512–0141.

Form Number: ATF F 2635 (5620.8).

Abstract: The form is used, along with other supporting documents, to obtain credit, remission, and allowance of tax on taxable articles (alcohol, beer, tobacco products, firearms, and ammunition) that have been lost and to obtain refund of overpaid taxes and abatement of overassessed taxes.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, individuals or households, not-for-profit institutions.

Estimated Number of Respondents: 10,000.

Estimated Total Annual Burden Hours: 10,000.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 11, 2002.

William T. Earle,

Assistant Director (Management), CFO.

[FR Doc. 02–9634 Filed 4–18–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Report of Firearms Transactions.

DATES: Written comments must be received on or before June 18, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gary Thomas, Chief, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7770.

SUPPLEMENTARY INFORMATION:

Title: Report of Firearms Transactions.

OMB Number: 1512–0178.

Form Number: ATF F 5300.5.

Abstract: ATF F 5300.5 documents transactions of firearms for law enforcement purposes. ATF uses the information to determine that the transaction is in accordance with laws and regulations and establishes the person(s) involved in the transactions.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 250.

Estimated Total Annual Burden Hours: 250.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 11, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–9635 Filed 4–18–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Report of Wine Premises Operations.

DATES: Written comments must be received on or before June 18, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Marjorie D. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8202.

SUPPLEMENTARY INFORMATION:

Title: Report of Wine Premises Operations.

OMB Number: 1512–0216.

Form Number: ATF F 5120.17.

Abstract: ATF collects this information in order to monitor activities at bonded wine premises. Information on production, removals, and raw materials used is analyzed to ensure compliance with tax and consumer protection laws enforced by ATF. The record retention period for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,755.

Estimated Total Annual Burden Hours: 10,642.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 11, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–9636 Filed 4–18–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data.

DATES: Written comments must be received on or before June 18, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gary Thomas, Chief, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7770.

SUPPLEMENTARY INFORMATION:

Title: Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data.

OMB Number: 1512–0369.

Recordkeeping Requirement ID Number: ATF REC 5300/1.

Abstract: Firearms manufacturers records are permanent records of all firearms manufactured and records of their disposition. These records are vital to support ATF's mission to inquire into the disposition of any firearm in the course of a criminal investigation. Records must be maintained for a period of 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,694.

Estimated Total Annual Burden Hours: 76,611.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 11, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–9637 Filed 4–18–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Records of Acquisition and Disposition-Registered Importers of Arms, Ammunition, and Implements of War on the U.S. Munitions Imports List.

DATES: Written comments must be received on or before June 18, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Debbie Lee, Firearms and Explosives Import Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8320.

SUPPLEMENTARY INFORMATION:

Title: Records of Acquisition and Disposition-Registered Importers of Arms, Ammunition, and implements of War on the U.S. Munitions Imports List.

OMB Number: 1512–0386.

Recordkeeping Requirement ID Number: ATF REC 7550/1.

Abstract: These records are unique in that they are of imported items that are on the U.S. Munitions Import List. The importers must register with ATF and must file an intent to import specific items, as well as certify to the Bureau that the items were in fact received. The records are maintained at the registrant's business premises where they are available for inspection by officers of ATF during compliance inspections or criminal investigations. Records must be maintained for a period of 6 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Total Annual Burden Hours: 250.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 11, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–9638 Filed 4–18–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Implementation of Public Law 105–277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Relating to Firearms Disabilities for Nonimmigrant Aliens.

DATES: Written comments must be received on or before June 18, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Larry White, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7770.

SUPPLEMENTARY INFORMATION:

Title: Implementation of Public Law 105–277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Relating to Firearms Disabilities for Nonimmigrant Aliens.

OMB Number: 1512–0570.

Abstract: This information collection implements the provision of Public Law 105–277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, relating to firearms disabilities for nonimmigrant aliens. The law prohibits with certain exceptions, the transfer to and possession of firearms and ammunition

by aliens in the United States in a nonimmigrant classification. In addition, the regulations remove the exemption from importation requirements for nonresidents bringing firearms and ammunition into the United States for hunting or sporting purposes.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households, business or other for-profit.

Estimated Number of Respondents: 12,100.

Estimated Total Annual Burden Hours: 12,100.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 11, 2002.

William T. Earle,

Assistant Director (Management), CFO.

[FR Doc. 02–9639 Filed 4–18–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Entry and Manifest of Merchandise Free of Duty

AGENCY: Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Entry and Manifest of Merchandise Free of Duty. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Entry and Manifest of Merchandise Free of Duty.

OMB Number: 1515–0051.

Form Number: Customs Form 7523.

Abstract: Customs Form 7523 is used by carriers and importers as a manifest for the entry of merchandise free of duty under certain condition and by Customs to authorize the entry of such merchandise. It is also used by carriers to show that the articles being imported are to be released to the importer or consignee.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 4,950.

Estimated Time Per Respondent: 1 hour and 40 minutes.

Estimated Total Annual Burden Hours: 8,247.

Estimated Total Annualized Cost on the Public: $123,700.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9542 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Petition for Remission or Mitigation

AGENCY: Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Petition for Remission or Mitigation. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork

Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Petition for Remission or Mitigation.

OMB Number: 1515–0052.

Form Number: Customs Form 4609.

Abstract: Persons who's property is seized or who incur monetary penalties due to violations of the Tariff Act are entitled to seek remission or mitigation by means of an informal appeal. This form gives the violator the opportunity to claim mitigation and provides a record of such administrative appeals.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 28,000.

Estimated Time Per Respondent: 14 minutes.

Estimated Total Annual Burden Hours: 6,500.

Estimated Annualized Cost to the Public: $157,300.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9543 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Certificate of Origin

AGENCY: Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Certificate of Origin. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Certificate of Origin.

OMB Number: 1515–0055.

Form Number: Customs Form 3229.

Abstract: This certification is required to determine whether an importer is entitled to duty-free for goods which are the growth or product of a U.S. insular possession and which contain foreign materials representing no more than 70 percent of the goods total value.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 113.

Estimated Total Annualized Cost on the Public: $1,030.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9544 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Ship's Stores Declaration

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Ship's Stores Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C,

Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Ship's Stores Declaration.

OMB Number: 1515–0059.

Form Number: Customs Form 1303.

Abstract: This collection is required for audit cargo purposes to ensure that goods used for Ship's Stores can be easily distinguished from other cargo and retain duty free status.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 104,000.

Estimated Time Per Respondent: 13 minutes.

Estimated Total Annual Burden Hours: 26,000.

Estimated Total Annualized Cost on the Public: $516,360.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9545 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Master's Oath on Entry of Vessel in Foreign Trade

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Customhouse Brokers License and Permit. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Master's Oath on Entry of Vessel in Foreign Trade.

OMB Number: 1515–0060.

Form Number: Customs form 1300.

Abstract: The license permit application is used by individuals, corporations, partnerships or associations applying for initial licensing in one Customs district, or in applying for a permit in an additional Customs district, or applying for a National Permit after receiving prior licensing.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 12,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 21,991.

Estimated Total Annualized Cost on the Public: $314,470.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9546 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Report of Diversion

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Report of Diversion. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information

should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Report of Diversion.

OMB Number: 1515–0071.

Form Number: Customs form 25.

Abstract: Customs uses CF 26 to track vessels traveling coastwise from U.S ports to other U.S. ports when a change occurs in scheduled itineraries. This is required for enforcement of the Jones Act (46 U.S.C. App. 883) and for continuity of vessel manifest information and permits to proceed actions.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 2800.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 233.

Estimated Total Annualized Cost on the Public: $3383.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9547 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Customhouse Brokers License and Permit

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Customhouse Brokers License and Permit. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Customhouse Brokers License and Permit.

OMB Number: 1515–0076.

Form Number: Customs form 3124.

Abstract: The license permit application is used by individuals, corporations, partnerships or associations applying for initial licensing in one Customs district, or in applying for a permit in an additional Customs district, or applying for a National Permit after receiving prior licensing.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 1800.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,800.

Estimated Total Annualized Cost on the Public: $28,350.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9548 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Establishment of a Container Station

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Establishment of a Container Station. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Establishment of a Container Station.

OMB Number: 1515–0117.

Form Number: N/A.

Abstract: This collection is an application to establish a container station for the vaning and devaning of cargo.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 177.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 354.

Estimated Total Annualized Cost on the Public: $4,672.00.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9549 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Establishment of a Bonded Warehouse

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Establishment of a Bonded Warehouse. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Establishment of a Bonded Warehouse.

OMB Number: 1515–0121.

Form Number: N/A.

Abstract: Owners or lessees desiring to establish a bonded warehouse must make written application to the port director where the warehouse is located. The application must state warehouse location, describe the premises and indicate the class of bonded warehouse permit desired. These requirements are pursuant to 19 U.S.C. 1555, 1556 and 19 CFR 19.2.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 45.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 135.

Estimated Total Annualized Cost on the Public: $2,227.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9550 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Application for Bonding of Smelting and Refining Warehouses

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Application for Bonding of Smelting and Refining Warehouses. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application for Bonding of Smelting and Refining Warehouses.

OMB Number: 1515–0127.

Form Number: N/A.

Abstract: A manufacturer engaged in smelting or refining, or both, of metal-bearing materials as provided for in section 312, Tariff Act of 1930, as amended, may make application to the port director nearest the plant location, for the bonding of such plants pursuant to 19 U.S.C. 1312 and 19 CFR 19.17(a).

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 8.

Estimated Total Annual Burden Hours: 8.

Estimated Total Annualized Cost on the Public: $154.88.

Dated:April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9551 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Application To Receive Free Materials in a Bonded Manufacturing Warehouse

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Application to Receive Free Materials in a Bonded Manufacturing Warehouse. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title:Application to Receive Free Materials in a Bonded Manufacturing Warehouse.

OMB Number: 1515–0133.

Form Number: N/A.

Abstract: The proprietor of a bonded manufacturing warehouse must make application to the port director of Customs to receive therein any domestic merchandise, except merchandise subject to Internal Revenue Tax, which is to be used in connection with the manufacture of articles permitted to be manufactured in such a warehouse.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 8.

Estimated Time Per Respondent: 375 hours.

Estimated Total Annual Burden Hours: 3,000.

Estimated Total Annualized Cost on the Public: $52,800.

Dated:April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9552 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Bonded Warehouses—Alterations, Suspensions, Relocations, and Discontinuance

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Bonded Warehouses—Alterations, Suspensions, Relocations, and Discontinuance. This request for comment is being made pursuant to the Paperwork Reduction

Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency=s estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Bonded Warehouses—Alterations, Suspensions, Relocations, and Discontinuance.

OMB Number: 1515–0134.

Form Number: N/A.

Abstract: Alterations to, or relocation of, a bonded warehouse may be made with the permission of the port director in whose port the facility is located by submission of an application by the warehouse proprietor to alter or relocate the warehouse.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 110.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 193.

Estimated Total Annualized Cost on the Public: $4,246.

Dated: April 15, 2002.

Tracey Denning,

Team Leader, Information Services Group.

[FR Doc. 02–9553 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Permit To Transfer Containers to a Container Station

AGENCY: Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Permit to Transfer Containers to a Container Station. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Permit to Transfer Containers to a Container Station.

OMB Number: 1515–0138.

Form Number: N/A.

Abstract: This information collection is needed in order for a container station operator to receive a permit to transfer a container or containers to a container station, he/she must furnish a list of names, addresses, etc., of the persons employed by them upon demand by Customs officials.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 1,200.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 400.

Estimated Annualized Cost to the Public: $8,700.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9554 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Cargo Container and Road Vehicle Certification for Transport Under Customs Seal

AGENCY: Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Cargo Container and Road Vehicle Certification For Transport Under Customs Seal. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Cargo Container and Road Vehicle Certification for Transport Under Customs Seal.

OMB Number: 1515–0145.

Form Number: N/A.

Abstract: This information collection is used in a voluntary program to receive internationally-recognized Customs certification that intermodel container/road vehicles meet construction requirements of international Customs conventions. Such certification facilitates International trade by reducing intermediate international controls.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 880.

Estimated Time Per Respondent: 3.5 hours.

Estimated Total Annual Burden Hours: 3080.

Estimated Annualized Cost to the Public: $37,500.

Dated: April 15, 2002.

Tracey Denning,

Team Leader, Information Services Group.

[FR Doc. 02–9555 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Line Release Regulations

AGENCY: Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Line Release Regulations. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Line Release Regulations.

OMB Number: 1515–0181.

Form Number: N/A.

Abstract: Line release was developed to release and track high volume and repetitive shipments using bar code technology and PCS. An application is submitted to Customs by the filer and a common commodity classification code (C4) is assigned to the application.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 25,700.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 6,425.

Estimated Total Annualized Cost on the Public: $452,375.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9557 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Air Waybill

AGENCY: Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Use of Air Waybill as In-Bond Document. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency=s estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Use of Air Waybill as In-Bond Document.

OMB Number: 1515–0186.

Form Number: CF 7512.

Abstract: This information collection is used by Customs to identify the delivering carrier , whether or not it is the initial bonded carrier, to surrender the in-bond document and serve notice of its arrival.

Current Actions: This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 31,200.

Estimated Time Per Respondent: 2 minutes.

Estimated Total Annual Burden Hours: 1,030.

Estimated Annualized Cost to the Public: $10,300.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9558 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Documentation Requirements for Articles Entered Under Various Special Tariff Treatment Provisions.

OMB Number: 1515–0194.

Form Number: N/A.

Abstract: This collection is used to ensure revenue collections and to provide duty free entry of merchandise eligible for reduced duty treatment under provisions of HTUSA.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 750.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 450.

Estimated Total Annualized Cost on the Public: $8,600.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9559 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; U.S. Customs Declaration (Customs Form 6059B)

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the U.S. Customs Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to U.S. Customs Service, Attn.: Tracey Denning, Rm 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: U.S. Customs Declaration.

OMB Number: 1515–0041.

Form Number: Customs Form 6059B.

Abstract: The U.S. Customs Declaration, Customs Form 6059B, facilities the clearance of persons and their goods arriving in the territory on the U.S. by requiring basic information necessary to determine Customs exception status and if any duties of taxes are due. The form is also used for the enforcement of Customs and other agencies laws and regulations.

Current Actions: This information collection includes some increases due to new information that will be collected. This submission is being submitted as a revision to a current collection.

Type of Review: Revision to an existing collection.

Affected Public: Traveling public.

Estimated Number of Respondents: 60,000,000.

Estimated Time Per Respondent: 4 minutes.

Estimated Total Annual Burden Hours: 3,960,000.

Estimated Total Annualized Cost on the Public: N/A.

Dated: April 15, 2002.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 02–9560 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Automated Clearinghouse Credit

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Automated Clearinghouse Credit . This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Automated Clearinghouse Credit.

OMB Number: 1515–0218.

Form Number: N/A.

Abstract: The information is to be used by Customs to send information to the company (such as revised format requirements) and to contact participating companies if there is a payment problem.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 65.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 249.

Estimated Total Annualized Cost on the Public: $4395.85.

Dated: April 15, 2002.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 02–9561 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Passenger and Crew Manifest for Passenger Flights

AGENCY: Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Passenger and Crew Manifest for Passenger Flights. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before June 18, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Passenger and Crew Manifest for Passenger Flights.

OMB Number: 1515–0232.

Form Number: N/A.

Abstract: This collection is to comply with a new section of the Customs Regulations (Part 122.49(a)) which requires transmission of manifest information to Customs for passenger flights.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 10 seconds.

Estimated Total Annual Burden Hours: 2380.

Estimated Annualized Cost to the Public: $35,700.

Dated: April 15, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–9562 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 02–20]

Guidelines for the Cancellation of Certain Claims for Liquidated Damages

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Under the Omnibus Trade and Competitiveness Act of 1988, the Secretary of the Treasury is required to publish guidelines for the cancellation of bond charges. There are certain Customs bond charges for which no guidelines have been published. This document publishes new guidelines for claims for liquidated damages established against holders of International Carrier Bonds for failure to redeliver to Customs custody merchandise which has been exported in violation of export control laws; against importers for failure to file NAFTA duty-deferral entries; and against Trade Fair Operators for violation of any of the conditions of the Basic Importation Bond relating to Trade Fairs. In addition, this document amends the guidelines published in T.D. 94–38 regarding the cancellation of claims when petitions are filed after established regulatory time frames have expired. This document also provides cancellation standards for all carnet cases. This document will supersede, in part, Customs Directive 3280–011A and Customs Directive 3280–016 as they relate to the cancellation of claims for liquidated damages arising from breach of ATA or TECRO/AIT Carnets.

EFFECTIVE DATE: These guidelines will take effect upon April 19, 2002, and shall be applicable to all cases which are currently open at the petition or supplemental petition stage.

FOR FURTHER INFORMATION CONTACT: For carnet guidelines: John Connors, Penalties Branch, Office of Regulations and Rulings (202) 927–2274.

For all other guidelines: Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings (202) 927–2344.

SUPPLEMENTARY INFORMATION:

Background

Section 1904 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418) amended section 623 of the Tariff Act of 1930 (19 U.S.C. 1623) by adding the following sentence at the end of section 623(c) of the Tariff Act of 1930 (19 U.S.C. 1623(c)):

> In order to assure uniform, reasonable and equitable decisions, the Secretary of the Treasury shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder.''

In T.D. 94–38, dated April 11, 1994, bond cancellation standards were published for claims involving late filing of entry summaries, late payment of estimated duties, violations of Temporary Importation Bonds, failure to redeliver merchandise, late filing of shipper's export declarations, missing document cases, in-bond violations, warehouse bond violations, airport security violations, foreign trade zone violations, failure to hold merchandise at the place of examination, failure to hold merchandise at or deliver it to a

centralized examination station and late filing of petitions for relief.

In T.D. 98–53, dated June 2, 1998, bond cancellation standards were published for claims arising from the failure to file or late filing of softwood lumber export information.

In T.D. 99–29, dated March 26, 1999, new guidelines were published for all violations involving failure to notify or late notification of the presence of unentered merchandise eligible for general order and for removal of merchandise from container freight stations. In addition, T.D. 99–29 revised guidelines originally published in T.D. 94–38 which covered delivery of merchandise to or removal of merchandise from Centralized Examination Stations (CES), delivery of cargo from the place of unlading or the place of examination without Customs authorization, and in-bond violations.

In T.D. 01–41, dated May 21, 2001, the text of guidelines originally published in T.D. 94–38 for cancellation of claims for liquidated damages arising from violations involving a foreign trade zone bond was revised and published.

This document publishes new guidelines for claims for liquidated damages established against holders of International Carrier Bonds for failure to redeliver to Customs custody merchandise which has been exported in violation of export control laws; against importers for failure to file NAFTA duty-deferral entries; and against Trade Fair Operators for violation of any of the conditions of the Basic Importation Bond relating to Trade Fairs.

In addition, this document amends the guidelines published in T.D. 94–38 regarding the cancellation of claims when petitions are filed after established regulatory time frames have expired. This document raises the minimum additional charge for a late petition from $100 to $400.

In December 1961, the Customs Cooperation Council (CCC), (since redesignated as the World Customs Organization (WCO)) adopted the Customs Convention on the ATA Carnet for the Temporary Admission of Goods. In July 1963, the ATA Convention entered into force. The Convention provided for the use of carnets for the duty-free admission of certain types of merchandise. The carnets serve as the entry document and the underlying bond guaranteeing import and export of that merchandise entered free of duty.

The TECRO/AIT Carnet is a separate carnet associated with the movement of certain merchandise between the United States and Taiwan established by virtue of a bilateral carnet agreement between the Taipei Economic and Cultural Representative in the United States (TECRO) and the American Institute in Taiwan (AIT). Under the TECRO/AIT Carnets, commercial samples and professional equipment shipped from Taiwan to the United States may be temporarily imported with the benefits of carnet facilitation.

While Customs has promulgated regulations regarding the assessment of liquidated damages for failing to meet the terms and conditions of carnets and has issued directives for their administration (for ATA carnets, Customs Directive 3280–011A, dated February 3, 2000, and for TECRO/AIT carnets, Customs Directive 3280–016, dated November 23, 1999), which included some mitigation instruction, formal guidelines for the cancellation of those liquidated damages claims arising from breaches of carnets have never been published. This document supersedes Customs Directive 3280–011A and Customs Directive 3280–016 as they relate to mitigation and cancellation of claims for liquidated damages arising for breach of an ATA or TECRO/AIT Carnet.

The text of the guidelines is set forth below.

Dated:
April 15, 2002.

Robert C. Bonner,

Commissioner of Customs.

I. Guidelines for Cancellation of Claims for Failure to Redeliver Export Merchandise (19 CFR 113.64(f)(1) and (f)(2))

A. Assessment

Claims for failure to redeliver merchandise exported in violation of the export laws result in the assessment of liquidated damages equal to 3 times the value of that merchandise.

B. Mitigation

1. There will be no mitigation of the claim for liquidated damages in the event that a significant enforcement objective is involved with respect to the reason for the redelivery order. For example, if goods subject to the redelivery order were stolen goods or were being exported to a country for which exportations of the specific goods are embargoed, no relief should be given from the liquidated damages claim.

2. For all other cases, the following guidelines apply to the cancellation of the claim for liquidated damages:

a. *First violation*—Cancel the claim for liquidated damages upon payment of an amount between 10 and 50 percent of the value of the cargo but in no case will the claim be cancelled upon payment of an amount less than two times the freight charges (if calculable). This is necessary in order to offset any economic advantage that might be gained through a failure to redeliver the merchandise.

b. *Second and subsequent violations*—Cancel the liquidated damages claim upon payment of an amount no less than the value of the cargo or five times the freight charges (if calculable), whichever is larger.

II. Guidelines for Assessment and Cancellation of Claims for Failure or Late Filing of NAFTA Duty Deferral Entries

A. Filing of NAFTA Duty Deferral Entry

1. If merchandise is originally entered into a duty-deferral program here in U.S. (TIB, bonded warehouse or FTZ) and then exported to Canada or Mexico or entered into a duty-deferral program in Canada or Mexico, a NAFTA duty-deferral entry must be filed.

2. A CF–7501 summary reporting export and duty-owed information must be filed with Customs 10 working days from the date of export or entry into the duty-deferral program in Canada or Mexico.

3. If the summary is never filed or filed after 10-working day filing period, a liquidated damages claim for breach of 19 CFR 113.62(b)(4) and 181.53(a)(2)(iii)(B) may be initiated for a NAFTA duty deferral non- or late file. Claim is assessed at the value of merchandise exported.

B. Payment of NAFTA Duty Deferral Duties

1. Payment of duties due with the NAFTA duty-deferral entry must be deposited with Customs no later than 60 calendar days from the date of export or entry into the duty-deferral program in Canada or Mexico. *See* 19 CFR 181.53(a)(2)(iii)(C). This includes any reduced duties that must be deposited with the filing of any claim for reduced duties per 19 CFR 181.53(a)(3)(ii).

2. Failure to deposit or late deposit of duties will result in the assessment of a claim for liquidated damages for double the unpaid duties or $1,000, whichever is greater, for violation of 19 CFR 113.62(a)(1) and 19 CFR 181.53(a)(2)(iii)(C).

C. Mitigation Guidelines

1. Late file of the duty-deferral entry (no revenue consequence) where the CF–7501 is filed outside the 10-working day period, but the NAFTA deferral duties are paid timely (as in A.3. above): Option 1 amount of $100. If the principal or surety petitions for relief

and cannot show that the violation did not occur, or only occurred as a result of Customs error, then mitigate to an amount no lower than $200.

2. Failure to deposit duties within 60 calendar days of export or entry into a duty-deferral program in Canada or Mexico, (as in B.2. above): no mitigation shall be afforded until duties are deposited.

3. Late payment of duties after issuance of a claim for failure to deposit duties: Option 1 amount of $200 + interest amount calculated in same manner as for late payment of estimated duties. If the principal or surety petitions for relief and cannot show that the violation did not occur, or only occurred as a result of Customs error, then mitigate to an amount no lower than $300 plus the appropriate interest amount.

4. Late payment of duties when a failure to deposit claim was not issued: Option 1 amount of $100 + interest amount calculated in same manner as for late payment of estimated duties. If the principal or surety petitions for relief and cannot show that the violation did not occur, or only occurred as a result of Customs error, then mitigate to an amount no lower than $200 plus the appropriate interest amount.

III. Guidelines for Cancellation of Claims for Violations Arising From Failure To Comply With Trade Fair Regulations

A. Trade Fair Operators are required to file a Basic Importation Bond per 19 CFR 147.3 covering articles entered for the Fair per 19 CFR 147.2.

B. If payments required by 19 CFR 147.33 (relating to reimbursement to the Government by the fair operator of certain expenses), 19 CFR 147.41 (relating to merchandise removed from the fair not in accordance with regulation) or 19 CFR 147.43 (relating to entry of merchandise from a fair) are not made upon demand, then liquidated damages may be assessed per 19 CFR 147.3 and 19 CFR 113.62(g) or (h).

C. Failure to use or handle merchandise in a manner which entitles it to duty-free entry (*i.e.*, removing it from the Fair other than in accordance with regulation including failure to make entry, if appropriate) will result in assessment of liquidated damages equal to the value of the merchandise involved in the violation (or three times the value if the merchandise is prohibited, restricted or alcoholic beverages) in accordance with 19 CFR 147.3, 147.41, 147.43, 113.62(h) and 113.62(l)(1).

D. Failing to exonerate the United States from risk or loss relating to the expenses incurred regarding the Fair will result in a claim for those expenses per 19 CFR 147.3, 147.33 and 113.62(g).

E. Cancellation standards.

1. There will be no mitigation from any claim made for failure to exonerate the Government from risk or loss per 19 CFR 113.62(g).

2. For failure to use or handle the merchandise in a manner entitling it to duty-free entry, the claim will be cancelled upon payment of an amount between one and five times the loss of revenue (if a revenue loss violation) or upon payment of 5 to 30 percent of value (if no revenue loss is involved) depending on the presence of mitigating or aggravating circumstances.

IV. Guidelines for Cancellation of Claims When Petitions for Relief Are Filed Untimely (Revision of Section X of T.D. 94–38 Guidelines)

A. Petitions may be accepted at the discretion of the Fines, Penalties & Forfeitures Officer at any time prior to commencement of any sanctioning action against a bond principal or the issuance of any notice to show cause against a surety.

B. If a petition is received untimely, Customs will first consider the petition as though it had been filed timely and shall determine the amount of mitigation that would have been afforded in the case had the petition been filed timely. For purposes of these guidelines, this determination shall be known as the Abase amount.''

C. Once the base amount has been determined, Customs shall charge an additional amount in excess of the base amount by calculating the number of calendar days that the petition is late and charging an additional mitigation amount of 0.1 percent (.001) per day. In no case will the additional amount be less than $400.

D. If the bond principal fails to file a petition during the time period provided by regulation, but then files a petition during the period in which the surety, by regulation, could file a petition, that petition will be considered as a late petition. The number of days late shall be calculated from the end of the 60-day petitioning period afforded to the principal. The demand on surety will be considered as an additional demand.

Note: For purposes of all bond cancellation standards, the term value shall mean value as determined under 19 U.S.C. 1401a.

V. Guidelines for Cancellation of Claims Arising From Breach of ATA or TECRO/AIT Carnets

A. Assessment of Claims

1. Articles entered under an ATA or TECRO/AIT carnet must be re-exported or destroyed prior to the expiration of the carnet period.

2. Failure to re-export or destroy those articles in the time period prescribed will result in the assessment of liquidated damages in an amount equal to 110 percent of the duties due on the articles.

3. The term ''duties'' does not include Merchandise Processing Fees or Harbor Maintenance Taxes for carnet claim assessment purposes.

4. All claims will be assessed against the guaranteeing association, the United States Council for International Business (USCIB).

5. No claim may be established more than one year after the expiration of the period for which the carnet was valid.

B. Petitions for Relief

1. Petitions for relief must be filed within 6 months of the date of the claim (the date of the CF–5955A).

2. The petition must provide proof of re-exportation or destruction of the articles.

3. If no petition is submitted in the 6-month period, the USCIB must provide full payment of the claim.

4. Such payment must be made within 30 days from the end of the 6-month period.

5. The USCIB will then have 90 days from the date of payment to submit adequate proof of re-exportation or destruction in order to receive a refund.

C. Proof of Re-exportation or Destruction; Regularization Fees

1. The ATA Convention allows Customs officials to charge a regularization fee for assisting the foreign issuing association in avoiding the liquidated damages. The regularization fee is a service fee and is not liquidated damages. Regularization fees will be charged as described herein.

2. If the petitioner provides a re-exportation counterfoil, unconditionally discharged by Customs, then the claim will be closed without payment. If payment of liquidated damages has been made, then a full refund shall be afforded. The term ''unconditionally discharged'' means that no remarks were noted by a Customs officer in the appropriate sections of the counterfoil.

3. If the petition provides an appropriate importation carnet voucher signed by a foreign Customs officer, the claim will then be regularized upon payment of $50.

4. If the petitioner provides any other acceptable proof of re-exportation or destruction, then the claim will be regularized upon payment of $100.

5. Small dollar value carnets. If the assessed amount for breach of a carnet is $100 or less (including carnets for zero duties), the claim still must be assessed. It is possible, based upon the type of proof of re-exportation or destruction provided, that payment of a regularization fee in excess of the assessed liquidated damages amount could occur. Unlike other liquidated damages claims, the amount of the bond does not limit liability for payment of the regularization fee, which is a fee for service. (*See* section F. below)

D. Partial Re-exportation or Destruction

1. In any situation where partial re-exportation or destruction occurs, if that re-exportation or destruction occurs within the carnet period and proof of re-exportation or destruction other than an unconditional discharge by a Customs officer is provided, Customs will collect a regularization fee with regard to that portion of merchandise for which adequate proof of re-exportation or destruction is provided.

2. If the partial re-exportation or destruction occurs beyond the carnet period, mitigation may be afforded (see Section E. below).

3. Full liquidated damages will be charged on that portion of the merchandise for which neither proof of re-exportation or destruction is provided. Partial liquidated damages and a regularization fee could be collected in closure of the same carnet.

4. If a re-exportation counterfoil showing an unconditional discharge as to part of a shipment of merchandise is provided timely, no collection will be made as to that merchandise.

E. Late Re-exportation

1. If merchandise is re-exported (or destroyed) after the one-year period and a re-exportation counterfoil indicating unconditional discharge by a Customs officer is provided timely, the claim shall be cancelled without payment.

2. If merchandise is re-exported (or destroyed) 180 days or more after the expiration of the carnet period and a re-exportation counterfoil indicating an unconditional discharge by a Customs officer is not provided, no relief from the claim shall be afforded.

3. If merchandise is re-exported (or destroyed) more than 90 days but less than 180 days after the expiration of the carnet period and adequate proof of re-exportation or destruction other than a re-exportation counterfoil with an unconditional discharge by a Customs officer is provided, the claim for liquidated damages may be cancelled upon payment of 50 percent of the liquidated damages assessed amount but not less than $100.

4. If merchandise is re-exported (or destroyed) 90 days or less after the expiration of the carnet period and adequate proof of re-exportation or destruction other than an exportation counterfoil with an unconditional discharge by a Customs officer is provided, the claim for liquidated damages may be cancelled upon payment of 25 percent of the claim but not less than $50.

F. Late Re-exportation of Duty Free and Zero Duty Merchandise

1. If merchandise is duty free or has a zero duty rate, claims for liquidated damages should still be assessed.

2. Claims for duty free and zero duty carnets will be processed in accordance with these guidelines.

G. Issuance of Claims

1. If a claim is received by the USCIB after the one-year period has expired, the claim will not be pursued.

2. Claims issued by Customs more than 30 days prior to the end of the one-year period will be presumed to be timely.

3. Claims should be issued by Customs as promptly as possible after discovery.

[FR Doc. 02–9540 Filed 4–18–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–28–96]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, FI–28–96 (TD 8801), Arbitrage Restrictions on Tax-Exempt Bonds (§ 1.148–5).

DATES: Written comments should be received on or before June 18, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack (202) 622–3179, or through the internet (Larnice.Mack@irs.gov), Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Arbitrage Restrictions on Tax-Exempt Bonds.

OMB Number: 1545–1490.

Regulation Project Number: FI–28–96.

Abstract: This regulation provides guidance concerning the arbitrage restrictions applicable to tax-exempt bonds issued by state and local governments and contains rules regarding the use of proceeds of state and local bonds to acquire higher yielding investments. The regulation provides safe harbors for establishing the fair market value of all investments purchased for yield restricted defeasance escrows. Further, the regulation requires that issuers must retain certain records and information with the bond documents. The recordkeeping requirements are necessary for the IRS to determine that an issuer of tax-exempt bonds has not paid more than fair market value for nonpurpose investments under section 148 of the Internal Revenue Code.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: State, local, or tribal governments, and not-for-profit institutions.

Estimated Number of Respondents: 1,400.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,425.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and

tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 12, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–9669 Filed 4–18–02; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Friday,
April 19, 2002

Part II

Department of Housing and Urban Development

24 CFR Parts 50 and 1005

Loan Guarantees for Indian Housing; Direct Guarantee Processing; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 50 and 1005

[Docket No. FR–4241–F–02]

RIN 2577–AB78

Loan Guarantees for Indian Housing; Direct Guarantee Processing

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule for the Loan Guarantees for Indian Housing Program makes permanent a new direct guarantee procedure that is modeled on the FHA single family mortgage insurance direct endorsement procedure. Under this procedure, HUD staff are not involved in the processing or approval of individual loans before closing. The rule also reflects statutory changes to the program concerning environmental review requirements and the geographical area in which loan guarantees may be made.

EFFECTIVE DATE: May 20, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Jurkowski, Director, Office of Loan Guarantee, Office of Native American Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO 80202. Telephone: (303) 675–1600. (This is not a toll-free number.) For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Interim Rule and Public Comments

HUD issued an interim rule on September 11, 1998 (63 FR 48987) amending the rule for its Section 184 Loan Guarantees for Indian Housing Program (24 CFR part 1005) to include a ''Direct Guarantee'' procedure as an alternative to regular HUD loan processing. The Direct Guarantee procedure dispenses with commitments and pre-loan closing underwriting review by HUD, with HUD review occurring after loan closing but before guarantee of the loan. A few other technical changes or corrections to part 1005 were made through the interim rule. As an Appendix to the interim rule, the Department also updated its ''Guide to Loan Guarantees for Indian Housing'' that was published with the final version of 24 CFR part 955 (now 24 CFR part 1005), to reflect recent legislation and the availability of the new alternative Direct Guarantee procedure and to make other minor improvements. The updated Appendix was not intended to be included in the Code of Federal Regulations.

The interim rule also amended HUD's environmental rules at 24 CFR 50.19(b)(17) to apply to the Direct Guarantee procedure the same categorical exclusion from environmental review under the National Environmental Policy Act of 1969 (NEPA) and other Federal environmental laws and authorities that currently applies to the FHA Direct Endorsement and Lender Insurance programs for single family mortgages. In a related change, existing § 1005.105(e) (''Environmental compliance'') was revised to reflect the new Direct Guarantee procedure and to state that procedures similar to the FHA builder certification procedures in 24 CFR 203.12(c)(2) will be required for proposed or new construction. Under those procedures, a builder reviews the area for environmental problems and hazards.

HUD received one public comment on the interim rule. The commenter supported the rule but urged that a borrower be informed at the time of loan processing of any negative conditions that would exist at the time of foreclosure for a Direct Guarantee that do not exist under current loan processing procedures. The Department is not aware of any negative effects of the Direct Guarantee alternative. Accordingly, no changes have been made to the interim rule on the basis of public comments.

Intervening Statutory Changes and Conforming Changes in Final Rule

After the interim rule was published, section 595(e)(13) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, added a new section 184(k) to the Housing and Community Development Act of 1992. New subsection (k) provides that for purposes of environmental review, decisionmaking, and action under the National Environmental Policy Act of 1969 (NEPA) and any other law that furthers the purposes of that Act, a Section 184 loan guarantee shall be (1) treated as a grant under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), and (2) subject to regulations issued to carry out section 105 of NAHASDA. Section 105 permits the Secretary ''in lieu of the environmental protection procedures otherwise applicable'' to provide by regulation for the release of grant amounts for particular projects to tribes which assume all of the responsibilities for environmental review, decisionmaking, and action under NEPA and related laws that would apply if the Secretary were to undertake such projects as federal projects. The implementing regulations for section 105 appear at 24 CFR 1000.18 through 1008.24 and 24 CFR part 58. Section 1000.20 makes it clear that a tribe may choose whether to assume environmental review responsibilities or to have HUD perform them in accordance with 24 CFR part 50.

Section 1005.105(e) of the interim rule only anticipated environmental review under part 50. It is amended in this final rule to recognize the tribal right to choose to assume environmental responsibilities in accordance with 24 CFR part 58. In a separate rulemaking procedure, HUD is developing changes to 24 CFR part 58 to clarify that part's applicability when a tribe assumes environmental review responsibilities for NAHASDA assistance or the Indian Housing Loan Guarantee program. A tribe may assume environmental review responsibilities for NAHASDA without doing so for Section 184 loan guarantees, and vice-versa.

When the home involves proposed or new construction, this final rule requires a Builder's Certification procedure comparable to the FHA Builder's Certification procedure under 24 CFR 203.12(b)(2) (designated prior to November 15, 1999 as § 203.12(c)(2)). The term ''comparable'' is used instead of the less clear ''similar'' that was used in the interim rule.

Section 595(e)(11) of Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, also removed from Section 184 the language that restricted Section 184 assistance to an area covered by an Indian Housing Plan under NAHASDA. The corresponding language in § 1005.101 and in the Appendix to part 1005 is therefore removed by this final rule.

This final rule also corrects a cross-referencing error in the first sentence of § 1005.107(b)(5)(ii), and amends that provision to reflect current HUD procedures regarding appeal of any HUD decision to cease issuing guarantees due to tribal failure to enforce eviction procedures. Finally, section 4(c) of the Appendix is changed to conform to HUD's rule on lead-based paint that was published on September 15, 1999 (64 FR 50140) and amended the safety and quality standards in § 1005.111 to reference new lead-based paint requirements.

For clarity, HUD is publishing the entire updated Appendix to part 1005 that sets forth the statutory and

regulatory requirements and additional guidance. The Appendix is not included in the Code of Federal Regulations.

Findings and Certifications

Executive Order 12866

This final rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866, *Regulatory Planning and Review.* OMB determined that this rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant under section (3)(f)(1) of the Order). Any changes made to the final rule subsequent to its submission to OMB are clearly identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street SW, Washington DC, 20410.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule does not have a significant economic impact on a substantial number of small entities. This final rule merely authorizes an alternative procedure for obtaining HUD guarantee for an Indian Housing loan. The rule has no disproportionate economic impact on small businesses.

Environmental Impact

A Finding of No Significant Impact with respect to the environment (FONSI) was made for the interim rule in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. That FONSI has been updated to reflect a statutory change that permits tribal assumption of environmental review responsibilities for the Section 184 program. The original FONSI and update are available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Executive Order 13132, Federalism

This final rule does not have Federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Catalog

The Catalog of Federal Domestic Assistance number for the Loan Guarantees for Indian Housing program is 14.865.

List of Subjects

24 CFR Part 50

Compliance record, Environmental assessment, Environmental impact statement, Environmental protection, Environmental quality, Environmental review policy and procedures.

24 CFR Part 1005

Indians, Loan programs—Indians, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 24 CFR parts 50 and 1005 which was published on September 11, 1998, is adopted as a final rule with the following changes:

PART 1005—LOAN GUARANTEES FOR INDIAN HOUSING

1. The authority citation for part 1005 is revised to read as follows:

Authority: 12 U.S.C. 1715z–13a; 42 U.S.C. 3535(d).

2. Section 1005.101 is revised to read as follows:

§ 1005.101 What is the applicability and scope of these regulations?

Under the provisions of section 184 of the Housing and Community Development Act of 1992, as amended by the Native American Housing Assistance and Self-Determination Act of 1996 (12 U.S.C. 1715z–13a), the Department of Housing and Urban Development (the Department or HUD) has the authority to guarantee loans for the construction, acquisition, or rehabilitation of 1- to 4-family homes that are standard housing located on trust or restricted land or land located in an Indian or Alaska Native area. This part provides requirements that are in addition to those in section 184.

3. Section 1005.105 is amended by revising paragraph (e) to read as follows:

§ 1005.105 What are eligible loans?

* * * * *

(e) *Environmental compliance.* (1) Section 1000.20 of this chapter applies to an environmental review in connection with a loan guarantee under this part. That section permits an Indian tribe to choose to assume environmental review responsibility.

(2) Before HUD issues a commitment to guarantee any loan, or before HUD guarantees a loan if there is no commitment, HUD must:

(i) Comply with environmental review procedures to the extent applicable under part 50 of this title, in accordance with § 1000.20(a) and (c); or

(ii) Approve a Request for Release of Funds and certification from an Indian tribe, in accordance with part 58 of this title, if the Indian tribe has assumed environmental review responsibility.

(3) If the loan involves proposed or new construction, HUD will require compliance with procedures comparable to those required by § 203.12(b)(2) of this title for FHA mortgage insurance.

* * * * *

4. Section 1005.107 is amended by revising the first two sentences of paragraph (b)(5)(ii) to read as follows:

§ 1005.107 What is eligible collateral?

* * * * *

(b) * * *

(5) * * *

(ii) *Review.* If the Department ceases issuing guarantees in accordance with paragraph (b)(5)(i) of this section, HUD will notify the tribe of the reasons for such action and that the tribe may, within 30 days after notification of HUD's action, file a written appeal with the Director, Office of Loan Guarantee (OLG), Office of Native American Programs (ONAP). Within 30 days after notification of an adverse decision by the OLG Director, the tribe may file a written request for review with the Deputy Assistant Secretary for ONAP.

* * *

Dated: April 10, 2002.

Mel Martinez,

Secretary.

Note: The following appendix will not be codified in the Code of Federal Regulations.

APPENDIX

Guide to Loan Guarantees for Indian Housing

Section 1. Purpose, applicability and scope
Section 2. Definitions
Section 3. Eligible loans
Section 4. Eligible housing
Section 5. Eligible lenders
Section 6. Eligible collateral
Section 7. Procedures
Section 8. Guarantee
Section 9. Guarantee fee
Section 10. Liability under guarantee
Section 11. Transfer and assignment

Section 12. Disqualification of lenders and civil money penalties
Section 13. Payment under guarantee
Section 14. Certification of compliance with tribal laws, and enforcement

Section 1. Purpose, Applicability and Scope

The purpose of this guide is to present, in a single document, the statutory and regulatory requirements, and certain other important administrative requirements, that apply to the Loan Guarantees for Indian Housing Program under Section 184 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992, as amended by the Native American Housing Assistance and Self-Determination Act of 1996 (Pub. L. 104–330). Although it presents the regulatory and statutory requirements in a combined format, this guide is a secondary source for these requirements. Title 24 of the Code of Federal Regulations is the primary, governing source for regulatory requirements, and Section 184 is the primary, governing source for statutory requirements.

Under Section 184, the Department of Housing and Urban Development (the Department) has the authority to guarantee loans for the construction, acquisition, rehabilitation, or acquisition and rehabilitation, of 1- to 4-family homes on trust and restricted lands for Indians (including Alaska Natives) and certain other lands under the jurisdiction of an Indian tribe. This guide describes the eligibility of borrowers, lenders and property, as well as the benefits of the Indian Loan Guarantee Program.

Section 2. Definitions

Default means the failure by a borrower to make any payment or to perform any other obligation under the terms of a loan, if such failure continues for a period of more than 30 days.

Department or *HUD* means the U.S. Department of Housing and Urban Development.

Direct guarantee means the underwriting procedure which qualified and approved mortgagees may use as described in 24 CFR 1005.104. The Secretary will publish guidelines for Direct guarantee underwriting procedures and underwriter qualifications in a Guidebook. Compliance with these guidelines is the minimum standard of due diligence.

Guarantee Fund means the Indian Housing Loan Guarantee Fund established under Section 184(i) of the Housing and Community Development Act of 1992.

Holder means the holder of the guarantee certificate and in this program is variously referred to as the lender, the holder of the certificate, the holder of the guarantee, and the mortgagee.

Indian means any person recognized as being an Indian or Alaska Native by an Indian tribe, the Federal Government, or any State, and includes the term ''Native American''.

Indian or Alaska Native area means the area within which an Indian housing authority or tribally designated housing entity (TDHE), as defined in Section 4 of the Native American Housing Assistance and Self-Determination Act of 1996, is authorized to provide housing.

Indian Housing Authority (IHA) means any entity that is authorized to engage in or assist in the development or operation of low-income housing for Indians or housing subject to the provisions of Section 184 and that is established either (1) by exercise of the power of self-government of an Indian tribe independent of State law, or (2) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska. The term includes tribally designated housing entities under the Native American Housing Assistance and Self-Determination Act of 1996.

Mortgage means:

(1)(i) A first lien as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the jurisdiction where the property is located and may refer to a security instrument creating a lien, whether called a mortgage, deed of trust, security deed, or another term used in a particular jurisdiction; or

(ii) A loan secured by collateral as required by 24 CFR 1005.107; and

(2) The credit instrument, or note, secured thereby.

Mortgagee or *lender* means the same as *holder.*

Mortgagor or *borrower* means the party receiving the loan, and authorized successors or assigns.

Principal residence means the dwelling where the mortgagor maintains (or will maintain) his or her permanent place of abode, and typically spends (or will spend) the majority of the calendar year. A person may have only one principal residence at any one time.

Secretary means the Secretary of Housing and Urban Development.

Section 184 means Section 184 of the Housing and Community Development Act of 1992.

Standard housing means a dwelling unit or housing that complies with the requirements established in this guide.

Tribe or *Indian tribe* means any tribe, band, nation or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.

Trust or restricted land means land, title to which is held by the United States for the benefit of an Indian or Indian tribe; or, land, title to which is held by an Indian tribe, subject to a restriction against alienation imposed by the United States.

Underwriting is the evaluation of documentation to determine risk.

Section 3. Eligible Loans

(a) In general. Only fixed rate, fixed term loans with even monthly payments are eligible under the Section 184 program.

(b) Eligible borrowers. A loan guaranteed under Section 184 may be made to a borrower that is:

(1) An Indian who will occupy it as a principal residence and who is otherwise qualified under part 1005;

(2) An Indian Housing Authority; or

(3) An Indian tribe.

(c) Terms of loan. The loan must:

(1) Be made for a term not exceeding 30 years;

(2) Bear interest (exclusive of the guarantee fee and service charges, if any) at a fixed rate agreed upon by the borrower and the lender and determined by the Department to be reasonable, which may not exceed the rate generally charged in the area (as determined by the Department) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government.

(d) Maximum loan amounts.

(1) A principal obligation may not exceed the lesser of:

(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); and

(ii) Amounts approved otherwise by the Department.

(2) The balance of the purchase price must involve a payment on account of the property that may be:

(i) In cash or other property of equivalent value acceptable to the lender and the Department; or

(ii) The value of any improvements to the property made through the skilled or unskilled labor of the borrower, appraised in accordance with generally acceptable practices and procedures.

(e) Construction advances. The Department may guarantee loans from which advances will be made during construction. The Department will provide guarantees for advances made by the mortgagee during construction if all of the following conditions are satisfied:

(1) The mortgagor and the mortgagee execute a building loan agreement, approved by HUD, setting forth the terms and conditions under which advances will be made;

(2) The advances are made only as provided in the building loan agreement;

(3) The principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor, pending advancement to the mortgagor or the mortgagor's creditors as provided in the building loan agreement; and

(4) The mortgage must bear interest on the amount advanced to the mortgagor or to the mortgagor's creditors and on the amount held in an account or trust for the benefit of the mortgagor.

(f) Environmental compliance. Section 1000.20 of the regulations under the Native American Housing Assistance and Self-Determination Act of 1996 (24 CFR 1000.20), which permits a Tribe to choose to assume Federal environmental review responsibility, applies to an environmental review in connection with a loan guarantee under the Section 184 program. Before HUD issues a

loan guarantee under the program, and before it issues any commitment, HUD must:

(1) Comply with environmental review procedures to the extent applicable under 24 CFR part 50, in accordance with § 1000.20(a) and (c); or

(2) Approve a Request for Release of Funds and certification from the tribe in accordance with 24 CFR part 58, when the tribe has assumed environmental responsibility.

(3) If the loan involves proposed or new construction, HUD will require a Builder Certification under procedures comparable to those required by 24 CFR 203.12(b)(2) for FHA mortgage insurance.

Section 4. Eligible Housing

(a) In general. A loan guaranteed under Section 184 may be used for the construction, acquisition, rehabilitation, or acquisition and rehabilitation, of a 1- to 4-family dwelling located on trust or restricted land, or land located in an Indian or Alaska Native area.

(b) Safety and quality standards. Loans guaranteed under Section 184 may be made only on dwelling units which meet safety and quality standards set forth herein. Each unit must:

(1) Be decent, safe, sanitary, and modest in size and design;

(2) Conform with applicable general construction standards for the region;

(3) Contain a heating system that:

(i) Has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;

(ii) Is safe to operate and maintain;

(iii) Delivers a uniform distribution of heat; and

(iv) Conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(4) Contain a plumbing system that:

(i) Uses a properly installed system of piping;

(ii) Includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

(iii) Uses water supply, plumbing and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(5) Contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(6) Be not less than:

(i) 570 square feet in size, if designed for a family of not more than 4 persons;

(ii) 850 square feet in size, if designed for a family of not less than 5 and more than 7 persons; and

(iii) 1020 square feet in size, if designed for a family of not less than 8 persons; or

(iv) The size provided under the applicable locally adopted standards for size of dwelling units; except that the Department, upon the request of a tribe or Indian Housing Authority, may waive the size requirements under this paragraph; and

(7) Conform with the energy performance requirements for new construction established by the Department under Section 526(a) of the National Housing Act.

(c) Lead-based paint. The relevant requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856) and implementing regulations at 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to the Section 184 program.

Section 5. Eligible Lenders

(a) Required approval. The loan may be made only by a lender meeting qualifications established in this guide, except that loans otherwise insured or guaranteed by any agency of the Federal government, or made by an organization of Indians from amounts borrowed from the United States are not eligible for guarantees under part 1005. The following lenders are approved under this guide:

(1) Any mortgagee approved by the Department of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act.

(2) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to Section 1802(d) of such title.

(3) Any lender approved by the Department of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949.

(4) Any other lender that is supervised, approved, regulated, or insured by any other agency of the Federal government.

(5) Any other lender approved by the Secretary under this part.

(b) Direct guarantee approval. To be approved for the Direct guarantee program, a lender must be an approved mortgagee under 24 CFR 202.6, 202.7 or 203.10, or must meet the requirements of Section (a)(4) or (a)(5) of this guide. In addition, the lender must establish that it meets the following qualifications:

(1) The lender, or one of its principal officers, has 5 years of experience in the origination of single family mortgages.

(2) The lender has on its permanent staff an underwriter meeting the standards of the Secretary and authorized by the lender to bind the lender on matters involving the origination of Section 184 mortgage loans through the direct guarantee procedure.

(3) The lender must assure that its underwriter and technical staff have been trained and are knowledgeable in the Section 184 underwriting requirements.

(4) The mortgagee must submit initially two Section 184 mortgage loans, processed in accordance with the process set forth in Section 7(b) of this guide. The documents required by Section 7(b) will be reviewed by the Secretary and, if acceptable, a firm commitment will be issued prior to loan closing. If the underwriting and processing of these two loans is satisfactory, then the lender may be approved to close subsequent loans without a prior commitment and submit them directly for guarantee in accordance with the process set forth in Section 7(b). Unsatisfactory performance by the lender at this stage constitutes grounds for denial of approval for the direct guarantee procedure or for continued pre-closing review of a lender's submissions.

(5) To process single close construction loans using the Direct Guarantee procedure, one of the lender's test cases must be a single close construction loan. If a lender is approved for Direct Guarantee processing without submitting an acceptable single close construction test case, the lender must submit a single close construction test case in full compliance with Section 184 program requirements and receive a Section 184 firm commitment for the test case, before the lender will be approved for single close construction processing using the Direct Guarantee procedure.

(c) Mortgagee sanctions. Depending on the nature and extent of the noncompliance with the requirements applicable to the Direct Guarantee procedure, as determined by the Department, the Department may take such actions as are deemed appropriate and in accordance with published guidelines.

Section 6. Eligible Collateral

(a) In general. A loan guaranteed under Section 184 may be secured by any collateral authorized under Federal, State, or tribal law and determined by the lender and approved by the Department to be sufficient to cover the amount of the loan. Collateral may include, but is not limited to, the following:

(1) The property and/or improvements to be acquired, constructed, or rehabilitated, to the extent that an interest in such property is not subject to the restrictions of trust lands against alienation;

(2) A first and/or second mortgage on property other than trust land;

(3) Personal property; or

(4) Cash, notes, an interest in securities, royalties, annuities, or any other property that is transferable and whose present value may be determined.

(b) Leasehold on trust or restricted land as collateral. If a leasehold interest in trust or restricted land is used as collateral for the loan, the following additional provisions apply:

(1) Approved Lease. Any land lease for a unit financed under Section 184 must be on a form approved by both HUD and the Bureau of Indian Affairs, U.S. Department of Interior.

(2) Assumption or sale of leasehold. If a leasehold is used as security for the loan, the lease form must contain a provision requiring tribal consent before any assumption of an existing lease, except where title to the leasehold interest is obtained by the Department through foreclosure of the guaranteed mortgage. A mortgagee other than the Department must obtain tribal consent before obtaining title through a foreclosure sale. Tribal consent must be obtained on any subsequent transfer from the purchaser, including the Department, at foreclosure sale. The lease may not be terminated by the lessor without HUD's approval while the mortgage is guaranteed or held by the Department.

(3) Eviction procedures. Before HUD will guarantee a loan secured by trust or restricted land, the tribe having jurisdiction over such

property must notify the Department that it has adopted and will enforce procedures for eviction of defaulted mortgagors where the guaranteed loan has been foreclosed.

(i) Enforcement. If the Department determines that the tribe has failed to enforce adequately its eviction procedures, HUD will cease issuing guarantees for loans for tribal members except pursuant to existing commitments by the Department or loan approvals by the lender under the Direct Guarantee procedure. Adequate enforcement is demonstrated where prior evictions have been completed within 60 days after the date of the notice by HUD that foreclosure was completed.

(ii) Review. If the Department ceases issuing guarantees in accordance with the preceding sentence, HUD will notify the tribe of the reasons for such action and that the tribe may, within 30 days after notification of HUD's action, file a written appeal with the Director, Office of Loan Guarantee (OLG), Office of Native American Programs (ONAP). Within 30 days after notification of an adverse decision on the appeal by the OLG Director, the tribe may file a written request for review with the Deputy Assistant Secretary for ONAP. Upon notification of an adverse decision by the Deputy Assistant Secretary, the tribe has 30 additional days to file an appeal with the Assistant Secretary for Public and Indian Housing. The determination of the Assistant Secretary will be final, but the tribe may resubmit the issue to the Assistant Secretary for review at any subsequent time if new evidence or changed circumstances warrant reconsideration. (Any other administrative actions determined to be necessary to debar a tribe from participating in this program will be subject to the formal debarment or limited denial of participation procedures contained in 24 CFR part 24.)

Section 7. Procedures

(a) Firm commitment procedure. Lenders that do not meet the approval requirements of Section 5(b) of this guide, or lenders approved for the direct guarantee procedure that do not process a particular loan using that procedure, must submit an application for Section 184 loan guarantee in a form prescribed by the Secretary, prior to making the loan. If:

(1) A loan for a specified property has been approved for a guarantee, and

(2) A specified borrower and all other proposed terms and conditions of the loan meet the eligibility requirements for guarantee as determined by the Secretary, the Secretary will approve the application for guarantee by issuing a commitment setting forth the terms and conditions of guarantee.

(b) Direct guarantee procedure.

(1) In general. Under the Direct Guarantee procedure, the Secretary does not review or approve applications for loan guarantee before the loan is executed or issue a firm commitment except as determined by the Secretary. Under this program, the lender determines that the proposed loan is eligible for guarantee under the Section 184 program requirements, and submits to the Secretary processing and closing documents that the Secretary will identify for lenders in administrative issuances. The Secretary then reviews the documents as needed. In cases involving the guarantee of a loan from which advances will be made during construction, before guaranteeing a loan HUD must either complete an environmental review to the extent required by 24 CFR part 50, or approve a Request for Release of Funds and certification submitted in accordance with 24 CFR part 58 by a tribe that has assumed the Federal environmental review responsibility for the loan guarantee in accordance with 24 CFR 1000.20.

(2) Use of procedure. A lender's use of the direct guarantee procedure is voluntary. Lenders who are approved for that procedure may choose which Section 184 loans are underwritten using that procedure or the firm commitment procedure.

Section 8. Guarantee

(a) Extent of guarantee. A certificate issued in accordance with Section 184 guarantees 100 percent of the unpaid principal and interest of the underlying loan.

(b) Approval process. If the Department approves a loan for guarantee and receives the required guarantee fee, the Department will issue a certificate under Section 184 as evidence of the guarantee. The loan is considered guaranteed when the certificate is issued.

(c) Standard for approval. The Department may approve a loan for guarantee under Section 184 and issue a certificate only if the Department determines there is a reasonable prospect of repayment of the loan. For loans under the firm commitment procedure, this determination will be made before a firm commitment is issued and the Secretary will issue a certificate if the loan complies with the firm commitment. For loans under the direct guarantee procedure, the lender must submit to the Secretary within 60 days of loan closing properly completed documentation and certifications as required by the Secretary, and the Department may make the required determination after loan closing on the basis of a review of the documents and certifications submitted by the lender.

(d) Effect. A certificate of guarantee issued under Section 184 by the Department is conclusive evidence of the eligibility of the loan for guarantee under the provisions of Section 184 and the amount of such guarantee. Such evidence is incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Department as security for such obligations.

(e) Fraud and misrepresentation. Nothing in Section 184 may preclude the Department from establishing:

(1) Defenses against the original lender based on fraud or material misrepresentation; and

(2) Establishing partial defenses, based upon regulations in effect on the date of issuance or disbursement (whichever is earlier), to the amount payable on the guarantee.

Section 9. Guarantee Fee

The lender must pay to the Department, at or before the time of issuance of the guarantee, a fee for the guarantee of loans under Section 184, in an amount equal to 1 percent of the principal obligation of the loan. This amount is payable by or on behalf of the borrower at closing.

Section 10. Liability Under Guarantee

The liability under a guarantee provided in accordance with Section 184 will decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

Section 11. Transfer and Assignment

Notwithstanding any other provision of law, any loan guaranteed under part 1005, including the security interest given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

Section 12. Disqualification of Lenders and Civil Money Penalties

(a) General. If the Department determines that a lender or holder of a guarantee certificate under Section 184 has failed to maintain adequate accounting records, to adequately service loans guaranteed under Section 184, to exercise proper credit or underwriting judgment, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Department may:

(1) Refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(2) Bar such lender or holder from acquiring additional loans guaranteed under Section 184; and

(3) Require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under Section 184.

(b) Civil money penalties for intentional violations. If the Department determines that any lender or holder of a guarantee certificate under Section 184 has intentionally failed to maintain adequate accounting records, to adequately service loans guaranteed under Section 184, or to exercise proper credit or underwriting judgment, the Department may impose a civil money penalty on such lender or holder in the manner and amount provided under Section 536 of the National Housing Act with respect to mortgagees and lenders under such Act.

(c) Payment of loans made in good faith. Notwithstanding paragraphs (a) and (b), the Department may not refuse to pay pursuant to a valid guarantee on loans of a lender or holder barred under Section 184, if the loans were previously made in good faith.

Section 13. Payment Under Guarantee

(a) Lender options.

(1) General. In the event of default by the borrower on a loan guaranteed under part 1005, the holder of the guarantee certificate must provide written notice of the default to the Department. Upon providing this notice, the holder of the guarantee certificate will be entitled to payment under the guarantee (subject to the provisions of part 1005) and

may proceed to obtain payment in one of the following manners:

(i) Foreclosure. The holder of the certificate may initiate foreclosure proceedings (after providing written notice of such action to the Department) and upon a final order by the court authorizing foreclosure and submission to the Department of a claim for payment under the guarantee, the Department will pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined in accordance with Section 9 of this guide) plus reasonable fees and expenses as approved by the Department. The Department will be subrogated to the rights of the holder of the certificate and the holder must assign the obligation and security to the Department.

(ii) No foreclosure. Without seeking a judicial foreclosure (or in any case in which a foreclosure proceeding initiated under paragraph (i) of this Section continues for a period in excess of 1 year), the holder of the certificate may submit to the Department a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Department may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment, the Department will pay to such holder for a loss on any single loan an amount equal to the *pro rata* portion of the amount guaranteed (as determined in accordance with Section 9 of this guide). The Department will be subrogated to the rights of the holder of the guarantee and the holder must assign the obligation and security to the Department.

(2) Requirements. Before any payment under a guarantee is made under paragraph (1) of this Section, the holder of the certificate must exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt must be assigned to the United States and the holder will have no further claim against the borrower or the United States.

(b) Limitations on liquidation. In the event of default by the borrower on a loan guaranteed under Section 184 involving a security interest in restricted Indian land, the lender or the Department will only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian Housing Authority serving the tribe or tribes. If the Department subsequently proceeds to liquidate the account, the Department will not sell, transfer, otherwise dispose of, or alienate the property except to one of the entities described in the preceding sentence.

Section 14. Certification of Compliance With Tribal Laws, and Enforcement

(a) Certification. Each lender and borrower must certify to acknowledge and agree to comply with all applicable tribal laws. An Indian tribe with jurisdiction over the dwelling unit does not have to be notified of individual Section 184 loans unless required by applicable tribal law.

(b) Enforcement. Failure of the lender to comply with applicable tribal law is considered to be a practice detrimental to the interest of the borrower and may be subject to enforcement action(s) under Section 184(g) of the statute.

[FR Doc. 02–9511 Filed 4–18–02; 8:45 am]

BILLING CODE 4210–33–P

Federal Register

Friday,
April 19, 2002

Part III

Securities and Exchange Commission

17 CFR Parts 275 and 279

Exemption for Certain Investment Advisers Operating Through the Internet; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 275 and 279

[Release No. IA–2028; File No. S7–10–02]

RIN 3235–AI15

Exemption for Certain Investment Advisers Operating Through the Internet

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Proposed rules.

SUMMARY: The Commission is publishing for comment rule amendments under the Investment Advisers Act of 1940 that would exempt certain investment advisers that provide advisory services through the Internet from the prohibition on Commission registration set out in section 203A of the Act. The effect of the amendments would be to permit these advisers to register with the Commission instead of with state securities authorities. The amendments are designed to alleviate the burden of multiple state regulation on advisers whose business is unconnected with any particular state and for whom multiple state regulation would be a hardship.

DATES: Comments must be received on or before June 6, 2002.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following E-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. S7–10–02; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters also will be posted on the Commission's Internet website: *http://www.sec.gov.*[1]

FOR FURTHER INFORMATION CONTACT: Marilyn Barker, Senior Counsel, or Jennifer L. Sawin, Assistant Director, at (202) 942–0719 or *IArules@sec.gov,* Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0506.

[1] We do not edit personal or identifying information, such as names or e-mail addresses, from electronic submissions. Submit only information you wish to make publicly available.

SUPPLEMENTARY INFORMATION: The Commission is requesting public comment on proposed amendments to rule 203A–2 (17 CFR 275.203A–2) and to Part 1A of Form ADV (17 CFR 279.1), both under the Investment Advisers Act of 1940 (15 U.S.C. 80b) (''Advisers Act'' or ''Act'').

I. Background

The National Securities Markets Improvement Act of 1996 (''NSMIA'') amended the Advisers Act to divide the responsibility for regulating investment advisers between the Commission and the state securities authorities.[2] Congress allocated to state securities authorities the primary responsibility for regulating smaller advisory firms that are essentially local businesses, and allocated to the Commission the primary responsibility for regulating larger advisers.[3] Section 203A of the Advisers Act[4] effects this division by generally prohibiting advisers from registering with us unless they either have assets under management of not less than $25 million or advise a registered investment company,[5] and preempts state adviser statutes as to advisers registered with the Commission.[6] Advisers prohibited from registering with us remain subject to the regulation of state securities authorities.[7]

The ''$25 million assets under management'' test was designed by Congress to distinguish investment advisers with a national presence from those that are essentially local businesses.[8] Congress recognized, however, that some advisers should be regulated at the federal level even though they have assets under management of less than $25 million, and gave us authority to permit advisers to register with us if the prohibition would be ''unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes' of section 203A.[9] In exercising this authority, we relieve advisers from the burdens of multiple state regulation.[10]

We recently have been asked, by advisers that provide their services through interactive websites and by their counsel, whether we might use our exemptive authority to permit these advisers to register with us.[11] These types of advisers, which we will call Internet Investment Advisers, provide substantially all of their advisory services through interactive websites. Clients visiting these websites answer on-line questions about their finances, investment objectives and investment time horizon, risk tolerance, and investment restrictions. The Internet Investment Adviser's computer-based application or platform—an algorithm—processes and analyzes the client's responses to generate the personalized investment advice that is communicated to the client through the website.[12] The interactive website may be reached at any time by persons residing in any state or outside the United States.

Most Internet Investment Advisers are not eligible to register with us. They do not have assets under management or advise a registered investment company, and thus do not meet the statutory thresholds for registration with us.

[2] National Securities Markets Improvement Act of 1996, Pub. L. 104–290, 110 Stat. 3416 (1996) (codified in scattered sections of 15 U.S.C.).

[3] *See* s. Rep. No. 293, 104th Cong., 2d Sess. 3–4 (1996) (hereafter Senate Report) at 4 (''The states should play an important and logical role in regulating small investment advisers whose activities are likely to be concentrated in their home state.'').

[4] 15 U.S.C. 80b–3a.

[5] Section 203A(a)(1) of the Advisers Act (15 U.S.C. 80b–3a(a)(1)). Rule 203A–1(a)(1) increases the assets under management threshold from $25 million to $30 million for registration with the Commission. (17 CFR 275.203A–1(a)(1). Upon reaching the $30 million threshold, advisers must register with us. Advisers having assets under management between $25 million and $30 million may opt to register with us. [17 CFR 275.203A–1(a)(2)].

[6] Section 203A(b) of the Advisers Act [15 U.S.C. 80b–3a(b)].

[7] Section 222 of the Advisers Act (15 U.S.C. 80b–18a). The prohibition in section 203A against registration with the Commission applies to advisers whose principal office and place of business is in a United States jurisdiction that has enacted an investment adviser statute. *See* Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1633 (May 15, 1997) [62 FR 28112 (May 22, 1997)], at text accompanying note 83. Currently, 49 states have investment adviser statutes, as do the District of Columbia, Puerto Rico and Guam. Investment advisers in Wyoming and the United States Virgin Islands, which do not have adviser statutes, register with us.

[8] *See* Senate Report at 4–5.

[9] Section 203A(c) of the Advisers Act (15 U.S.C. 80b–3a(c)). *See* Senate Report at 5. Section 203A was designed to allow the Commission to better use its limited resources by concentrating its regulatory responsibilities on larger advisers with national businesses, and to reduce the burden to investment advisers of the overlapping and duplicative regulation (that existed prior to enactment of NSMIA) by preempting state investment adviser statutes, thus subjecting large advisers with national businesses to a single regulatory program administered by the Commission. *See* Senate Report at 2–4.

[10] The exercise of our exemptive authority permits registration with the Commission and preempts state law with respect to the exempted advisers that register with us.

[11] We recognize that other advisers use the Internet in other ways. For example, other advisers may use websites for marketing purposes. *See infra* Section II of this Release. The proposed rule amendment, however, does not address these other Internet uses.

[12] *See* Andrew Willmott, *Legg Mason Nurtures Mass Affluent,* FUNDfire, Dec. 12, 2001; Caren Chesler, *Technology A Must In Managed Account Mart,* FUNDfire, July 27, 2001.

Further, most of these advisers either do not qualify to use our existing exemptive rules or, as discussed below, cannot use the exemptions effectively.

Our multi-state adviser exemption permits an adviser that does not meet the statutory thresholds to register with us if, among other things, it would otherwise have to register with the securities authorities of at least 30 states.[13] The exemption was designed to permit Commission registration for advisory firms that had offices and clients in multiple states.[14] Internet Investment Advisers, however, do not have multiple offices; their multiple state registration obligations turn solely on the residences of their clients. Because an Internet Investment Adviser's clients can come from anywhere, and in any number at any time, as a practical matter, the adviser may need to register in all the states and wait until it has a registration obligation in 30 states before registering with us and canceling its state registrations.[15]

As discussed above, Congress gave us authority to permit investment advisers to register with us when the prohibition would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of section 203A.[16] Internet Investment Advisers, which were not in business when NSMIA was enacted in 1996, appear to be the type of advisory firm for which Congress envisioned we would exercise this authority. Other small advisers with few or no assets under management typically rely on face-to-face contact between clients and advisory personnel at the firm's offices. They are local businesses serving the geographical area in which the office is located. In contrast, Internet Investment Advisers have no physical presence in a community or state. Clients of Internet Investment Advisers have little or no in-person contact with the firm or its personnel, and obtain the adviser's services only through a website. Their activities are, by their nature, not confined to one or a few states that have a distinct regulatory interest in the advisers' operations. In addition, the cost of registering temporarily in all state jurisdictions acts as an impediment to launching these businesses. Requiring these advisers to register in multiple states would appear to be unfair to them and a burden on their interstate commerce. Therefore, we are proposing to amend our exemptive rules to permit these advisers to register with the Commission.

II. Discussion

Proposed rule 203A–2(f) would exempt an adviser from the prohibition on Commission registration if the adviser conducts substantially all of its advisory business through an interactive website on the Internet.[17] Advisers registering with us under the new exemption[18] would be required to keep records demonstrating that they meet the conditions of the rule.[19]

We have drafted the proposed rule to make it unavailable to advisers that merely have websites as marketing tools or that use Internet vehicles such as E-mail, chat rooms, bulletin boards and webcasts or other electronic media to communicate with clients.[20] Eligibility for the exemption would turn on whether the adviser conducts substantially all of its advisory business through an interactive website. We define ''interactive website'' in the proposed rule as a website in which computer software-based models or applications provide investment advice to clients based on information that each client supplies through the website.[21] We define the term ''substantially all'' in the proposed rule to mean that at least 90 percent of the investment adviser's clients obtain advice exclusively through the interactive website.[22]

We request comment on the terms of the proposed rule:

- Does the proposed rule differentiate adequately between advisers that merely use the Internet to market their business and those that conduct substantially all of their advisory business through the Internet?
- Will the test for ''substantially all'' appropriately limit the use of the rule, or are there alternative tests that we should consider?
- The rule would require that 90% of the adviser's clients obtain their investment advice exclusively through the interactive website. Is 90% of clients the appropriate percentage? If not, what higher or lower percentage should we consider?
- Should we require that these clients obtain all of their advice from the adviser through the interactive website? Alternatively, should we consider permitting an adviser to use the rule even if these clients obtain less than all of their advice through the website? If so, what proportion should we require? How would the adviser measure that proportion? What burden would this measurement place on the adviser?
- We estimate that as many as 20 advisers may currently be eligible for the exemption provided by the proposed rule amendments. Is this estimate reasonable?
- We believe that demand for Internet Investment Advisers' services may grow in the next several years, perhaps as part of the growing demand for advice to pension plan participants. Is this expectation reasonable? How many new Internet Investment Advisers are likely to form to meet any increases in demand?
- Are there other types of investment advisers '' without assets under management but operating in many states '' that face similar burdens? How many of these advisers are there? In how many states do they typically register? Should we also consider exempting them from section 203A?

III. Request for Comment

Any interested persons wishing to submit written comments on the proposed rule amendments that are the

[13] 17 CFR 275.203A–2(e). An investment adviser relying on this exemption must represent that it has reviewed its obligations under state and federal law and has concluded that is would be required to register as an investment adviser with the securities authorities of at least 30 states. Following registration with us, the investment adviser continues to be eligible for the exemption as long as it can annually represent that it would be required to register in at least 25 states.

[14] The multi-state exemption codified exemptive orders that permitted large accounting firms that offered financial planning services to register as advisers with the Commission even though they did not manage assets.

[15] In addition to the multi-state exemption, rule 203A–2 (17 CFR 275.203A–2) provides four other exemptions under which advisers register with the Commission, none of which may be available to Internet Investment Advisers. One of these exemptions permits a newly-formed adviser to register with us if the adviser is not already registered or required to be registered with the Commission or with a state securities authority, and the adviser has a reasonable expectation that, within 120 days, it will be eligible to register with us under a different basis. Rule 203A–2(d) (17 CFR 275.203A–2(d). This rule was designed for use principally by new advisory firms that have been ''spun-off'' from existing portfolio management firms and therefore can reasonably expect to have at least $25 million in assets under management within 120 days, and by advisers to new mutual funds that are expected to be operational within 120 days. Internet Investment Advisers, however, typically must register early in their development and testing phase in order to secure venture capital, and typically need more than 120 days to complete development and testing. Many may not even be fully operational within 120 days after registering.

[16] *See supra* note 9 and accompanying text.

[17] Proposed rule 203A–2(f)(1)(i).

[18] A new box would be added to Item 2 of Part 1A of Form ADV for these advisers to indicate their eligibility to register with the Commission.

[19] Proposed rule 203A–2(f)(1)(ii).

[20] Internet use of some kind is very common among advisers. Over half of SEC-registered advisory firms, for example, report having at least one web address. A rule permitting all advisers using the Internet to register with the Commission could effectively undo NSMIA's division of regulatory responsibilities between the Commission and the states.

[21] Proposed rule 203A–2(f)(2)(i).

[22] Proposed rule 203A–2(f)(2)(ii).

subject of this release, or to submit comments on other matters that might have an effect on the proposals described above, are requested to do so. Commenters suggesting alternative approaches are encouraged to submit proposed rule text.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission also is requesting information regarding the potential impact of the proposed rule amendments on the economy on an annual basis. Commenters should provide empirical data to support their views.

IV. Cost-Benefit Analysis

A. Background

The Commission is sensitive to the costs and benefits imposed by its rules. Proposed rule 203A–2(f) under the Advisers Act would permit certain investment advisers that provide advisory services through interactive Internet websites to register with the Commission rather than with the state securities authorities. These investment advisers cannot currently register with the Commission because they do not meet the Act's statutory thresholds, that is, they do not have $25 million or more of assets under management and do not advise registered investment companies.[23] Unlike most state-registered advisers, Internet Investment Advisers have no local presence and their activities are not confined to one or a few states; the nature of the Internet makes these advisers' services available to clients in all states, and an adviser's state registration obligations could be triggered without warning within a single day or hour when six or more clients from a single state obtain personalized investment advice from the adviser's interactive website.[24] As a practical matter, therefore, Internet Investment Advisers need to register in all states to avoid violating state laws.[25]

Congress gave us authority to permit advisers to register with us even though they do not meet the statutory threshold if the prohibition would be unfair, a burden on interstate commerce, or otherwise inconsistent with NSMIA's regulatory division between the states and the Commission. We have used this authority to adopt exemptive rules to permit Commission registration of advisers that did not meet the statutory thresholds in section 203A. The rule amendment we are proposing today is designed to alleviate the substantial burden of multiple state registration and regulation for Internet Investment Advisers by permitting these advisers to register with the Commission.

Since most Internet Investment Advisers do not currently register with us, we have limited data on the number of investment advisers that would qualify at this time for the proposed exemption. Based on news articles, however, and for purposes of the Paperwork Reduction Act, we have estimated that perhaps as many as 20 firms would currently be eligible for the new exemption.

- Comment is requested on our estimate of the number of investment advisers likely to register with the Commission under the proposed rule.
- Commenters are requested to provide views and empirical data relating to the number of these advisers.

B. Benefits

The proposal would benefit Internet Investment Advisers by relieving them of the costs they would otherwise incur if they were required to comply with the registration and other regulatory requirements of 49 states. As discussed earlier, Internet Investment Advisers, as a practical matter, would have to register in all states and then wait until their registration obligations are triggered in at least 30 states before becoming eligible for Commission registration under our multi-state exemption in rule 203A–2(e). [26] Adviser regulations and requirements are not uniform and may even be contradictory from state to state. Based on recent discussions with counsel familiar with state adviser registration and regulatory issues, we estimate the cost to an Internet Investment Adviser of complying with the registration and other regulatory requirements of 49 states to be approximately $50,000 annually.[27] The benefit of the proposed rule is therefore estimated to total as much as $1 million annually for the 20 advisers that may be eligible for the new exemption at this time.[28] Moreover, subjecting these advisers to the cost of registering temporarily in all state jurisdictions and to multiple state regulation acts as an impediment to launching these businesses. The proposed rule would benefit the advisers industry by removing this barrier, and may enable more firms to offer these types of Internet-based services.

The benefits of the proposed rule would also include the savings to the affected advisers from the cost of examinations by multiple states' regulators, as well as the savings to state securities authorities that would no longer examine these firms.

C. Costs

Proposed rule 203A–2(f) would impose certain costs on advisers relying on the exemption. The Commission estimates that the total cost to each Internet Investment Adviser to comply with the recordkeeping provision of the proposed rule would be approximately $138.80,[29] such that the total cost for the 20 advisers that may be eligible for the new exemption at this time would be $2,776.[30]

D. Form ADV

We have not included the benefits or costs associated with filing Form ADV,[31] nor benefits or costs associated with the Investment Adviser Registration Depository (IARD). Form ADV is used by the states as well as by the Commission to register investment advisers, such that all advisers registering with either the Commission or a state complete a single Form ADV; advisers may file the form with the Commission or with one or more states. Shifting an Internet Investment

[23] These statutory thresholds were imposed in NSMIA, which divided responsibility for regulating investment advisers between the Commission and the state securities authorities.

[24] Exceeding state-established de minimis numbers for advisory clients may trigger state registration requirements. The national de minimis standard in section 222(d) of the Advisers Act (15 U.S.C. 80b–18a(d), however, preempts state minimums that are lower than six clients resident in that state during a 12-month period.

[25] At this time, 49 states have investment adviser statutes, as do the District of Columbia, Puerto Rico and Guam. Wyoming and the United States Virgin Islands currently do not have investment adviser statutes. Advisers that maintain their principal places of business in those two jurisdictions must register with the Commission.

[26] 17 CFR 275.203A–2(e). Advisers relying on the multi-state exemption must be required to register with the securities authorities of at least 30 states. After registering with us, multi-state advisers continue to be eligible for the exemption as long as they can represent annually that they would be required to register in at least 25 states.

[27] This figure includes the costs of responding to multiple states' comments on filings, as well as the cost of complying with multiple and often disparate state regulations. It does not, however, include the time to complete Form ADV initially and the fees to file Form ADV through the IARD, as discussed below. This figure also does not include state registration fees.

[28] $20 \times 50{,}000 = 1{,}000{,}000$.

[29] The Commission estimated this figure by multiplying the burden hours to comply with the proposed rule's recordkeeping requirements (4 hours) by an average hourly compensation rate of $34.70. This compensation rate includes overhead and is the rate for an operations supervisor outside of New York City, based on a 2000 study by the Securities Industry Association. The estimate of burden hours is based on the Commission's submission for the proposed rule under the Paperwork Reduction Act and reflects recent discussions with counsel familiar with advisers' recordkeeping issues. *See infra* Section V. of this Release.

[30] $20 \times 138.8 = 2{,}776$.

[31] 17 CFR 279.1 (Form ADV).

Adviser's registration from the states to the Commission, therefore, does not change their basic filing requirement.[32] Similarly, state-registered advisers as well as advisers registered with the Commission make their Form ADV filings electronically through the IARD and pay the attendant filing fees.[33] Shifting an Internet Investment Adviser's registration from the states to the Commission does not change this filing process or the IARD filing fees.

E. Request for Comment

- The Commission requests comment on the potential costs and benefits identified in this release, as well as any other costs or benefits that may result from the proposal.
- We encourage commenters to identify, discuss, analyze, and supply relevant data regarding these or additional costs and benefits.

V. Paperwork Reduction Act

A. Recordkeeping

Proposed rule 203A–2(f) would exempt, from the prohibition against Commission registration, certain investment advisers that provide advisory services through the Internet. The proposed rule includes a recordkeeping provision, and therefore contains a new ''collection of information'' requirement within the meaning of the Paperwork Reduction Act of 1995.[34] The Commission staff needs and will use this collection of information in its examination and oversight program. The proposed rule requires advisers registering under the rule to maintain a record demonstrating that substantially all of their advisory business has been conducted through an interactive website. Although we anticipate that most advisers registering under the proposed rule would generate the necessary records in the ordinary conduct of their Internet advisory business, the recordkeeping requirement of proposed rule 203A–2(f) may impose a small additional burden on these advisers. We estimate that this recordkeeping burden should not exceed an average of 4 hours annually per adviser, for a total burden of 80 hours annually.[35]

- We request comment whether the estimate of our recordkeeping burden is reasonable.

The Commission is submitting the collection of information to the Office of Management and Budget (''OMB'') in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for the collection of information is ''Exemption for Certain Investment Advisers Operating Through the Internet'' under the Advisers Act. 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 control number. The collection of information is mandatory, and responses are not kept confidential. The likely respondents to this information collection would be investment advisers that meet the conditions of the proposed rule and register with us.

B. Form ADV

In addition, the proposal would amend Form ADV to add a new category of advisers eligible for Commission registration. The proposed rule therefore would increase the number of advisers that file Form ADV and annual amendments to Form ADV with the Commission. The title for this existing collection of information is ''Form ADV'' under the Advisers Act. 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 control number. The form contains currently approved collection of information numbers under OMB control number 3235–0049 (expires June 30, 2003), and the Commission is submitting the amendments to this collection of information to the Office of Management and Budget (''OMB'') in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The collection of information is found at 17 CFR 275.203–1, 275.204–1, and 279.1. This collection of information also is mandatory. Responses are not kept confidential. The likely new respondents to this information collection would be the investment advisers that meet the conditions of the proposed rule and register with us.

As new respondents,[36] these advisers will increase the total burden under Form ADV, but an Internet Investment Adviser's burden for completing Form ADV would not differ from that for current registrants.[37] The currently approved burden of the collection of information under Form ADV is 46,466 hours, and the current average burden for each form is 9.402 hours.[38] We estimate that approximately 20 Internet Investment Advisers would register with the Commission under the proposed rule,[39] and that each of these advisers would file one complete Form ADV and one amendment annually.[40] The increase in the total annual burden for this collection of information would therefore be 455 hours,[41] for a total revised burden of 46,921 hours.[42]

- We request comment whether these estimates are reasonable.

C. Request for Comment

Any information received by the Commission related to the proposed rule amendments would not be kept confidential. Pursuant to 44 U.S.C.

[32] Advisers registered with the Commission, however, complete only Part 1A of Form ADV, while advisers registered with the states must complete both Parts 1A and 1B.

[33] Advisers pay filing fees to NASD Regulation, Inc., which operates the IARD system. The filing fees include an initial set-up fee and an annual fee, each of which varies based on the adviser's assets under management. Because Internet Investment Advisers generally do not manage client assets, we expect that they will be eligible for the lowest fee levels of $150 for the initial set-up fee and $100 for the annual fee. See Investment Advisers Act Release No. 1888 (July 28, 2000) (65 FR 47807 (Aug. 3, 2000)) (''Advisers Act Release No. 1888'').

[34] 44 U.S.C. 3501–3520.

[35] 4 hours × 20 advisers = 80 hours. This estimate is based on recent discussions with counsel familiar with advisers' recordkeeping issues. The recordkeeping requirement does not require extensive data on usage of the website, nor does it specify how an adviser should maintain its records to meet this condition of the proposed rule. The adviser would need only to demonstrate that 90 percent of its clients obtain their investment advice from the firm exclusively through the website. We note that Internet Investment Advisers that conduct their business exclusively through interactive websites would likely need to spend very little time documenting their compliance with the condition. An adviser that also meets in person with some clients or communicates with them through other means may need to spend more time.

[36] We note that, because the states as well as the Commission use Form ADV, these advisers will be new respondents for purposes of the Commission's collection of information requirements, but not new users of Form ADV.

[37] The proposed amendments would add a new box to Item 2 of Part 1A of Form ADV, so that Internet Investment Advisers could indicate their eligibility for Commission registration. All advisers registering with the Commission must indicate their eligibility by checking at least one box, so the addition of the new box for Internet Investment Advisers will not change the burden of completing the form.

[38] *See* Electronic Filing by Investment Advisers; Proposed Amendments to Form ADV, Investment Advisers Act Release No. 1862 (April 5, 2000) (65 FR 20524 (April 17, 2000)) (''Advisers Act Release No. 1862''). The current average burden per response includes 9,100 filings of the complete form at 22 hours each, plus 13,250 amendments requiring 0.75 hours each. (((9100×22) + (13250×.75))/22350=9.402).

[39] Our staff has examined approximately six advisers that registered with us and whose business is substantially Internet-based. Because most Internet Investment Advisers are not yet eligible to register with us, however, we believe that there may be as many as 20 firms that could register under the proposed new exemption.

[40] The currently approved burden for this collection of information estimates that most advisers registering with the Commission for the first time will file one amendment per year.

[41] 22 hours to complete a new Form ADV × 20 Internet Investment Advisers = 440 hours. 0.75 hours per amendment × 20 amendments = 15 hours. 440 + 15 = 455.

[42] 46,466 + 455 = 46,921.

3506(c)(2)(B), the Commission solicits comments to:

- Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;
- Evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information;
- Determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and
- Determine whether there are ways to minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Room 3208, Washington, DC 20503, and also should send a copy to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609 with reference to File No. S7–10–02. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full effect if OMB receives the comment within 30 days after publication of this release. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–10–02, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 Fifth Street, NW, Washington, DC 20549.

VI. Initial Regulatory Flexibility Analysis

The Commission has prepared the following Initial Regulatory Flexibility Analysis (''IRFA'') regarding proposed rule 203A–2(f) in accordance with section 3(a) of the Regulatory Flexibility Act. [43]

A. Reasons for Proposed Action

Section 203A(a) of the Investment Advisers Act of 1940 generally prohibits an investment adviser from registering with the Commission unless the adviser either has at least $25 million of assets under management or is an adviser to a registered investment company. Internet Investment Advisers do not meet the statutory thresholds for registration with us and do not qualify to use our existing exemptive rules. Section 203A(c) of the Advisers Act gives us authority to permit investment advisers to register with us when the prohibition of section 203A(a) would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of section 203A.[44] Without this proposed rulemaking relief, Internet Investment Advisers, as a practical matter, may be left with the burden of registering in 49 states, waiting until their registration obligations accrue in at least 30 states, and then registering with the Commission under the multi-state exemption of rule 203A–2(e) and withdrawing the state registrations. The proposed rule would eliminate the unnecessary burden of these temporary state registrations by permitting these advisers to register with us.

B. Objectives and Legal Basis

The objective of the proposed amendments is to alleviate the burden of multiple state regulation on investment advisers that conduct substantially all of their advisory business through interactive websites. Proposed rule 203A–2(f) would achieve this objective by providing these advisers with an exemption from the prohibition on Commission registration. We are proposing this rule pursuant to our authority under section 203A(c) of the Act.[45] Section 203A(c) of the Act gives us the authority, by rule or regulation upon our own motion, or by order upon application, to permit registration with us of any person or class of persons to which the application of the prohibition on Commission registration would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of section 203A.

C. Small Entities Subject to Proposed Rule

Under Commission rules, for the purposes of the Advisers Act and the Regulatory Flexibility Act, an investment adviser generally is considered a small entity if it: (i) Has assets under management having a total value of less than $25 million; (ii) did not have total assets of $5 million or more on the last day of its most recent fiscal year; and (iii) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had $5 million or more on the last day of its most recent fiscal year.[46] The Commission estimates that approximately 20 investment advisers will likely be eligible to register with us under the proposed rule, and it is probable that all of these approximately 20 investment advisers will be small entities.[47]

- Comment is requested on the number of Internet Investment Advisers that are likely to be small entities.
- Commenters are requested to provide views and empirical data relating to the number of these advisers that would be considered small entities.

D. Reporting, Recordkeeping, and Other Compliance Requirements

The proposed rule would impose certain new recordkeeping requirements on Internet Investment Advisers. The proposed rule would not impose any other new or additional reporting or compliance requirements on these advisers, and would significantly reduce certain compliance burdens for these advisers by eliminating the need for these advisers to comply with multiple state regulations. As discussed earlier, most or all of these advisers would likely be small advisers. Under the proposed rule, Internet Investment Advisers would be required to maintain in an easily accessible place a record demonstrating that substantially all of their advisory business has been conducted through an interactive website. The Commission believes that the recordkeeping requirement contained in the proposed rule would not impose a significant burden on Internet Investment Advisers, including small advisers. [48]

The Commission believes that the proposed amendment to Item 2 of Part 1A of Form ADV would have no measurable effect on Internet Investment Advisers, including small advisers. A new box would be added to

[43] 5 U.S.C. 603(a).

[44] *See supra* note and accompanying text.

[45] 15 U.S.C. 80b–3a(c).

[46] 17 CFR 275.0–7(a).

[47] Internet Investment Advisers generally do not manage assets and therefore will not likely have any assets under management. These firms are also generally start-up businesses and may have limited assets; only one of the Internet-based firms our staff has examined reported having total assets of $5 million or more. Consequently, we believe that most, if not all, of the advisers registering with us under the proposed rule will be small entities.

[48] Recordkeeping is already mandated for all Commission-registered advisers, including small advisers, under rule 204–2. (17 CFR 275.204–2.) The Commission has estimated, for purposes of the Paperwork Reduction Act, that compliance with the recordkeeping requirements of the proposed rule would take no more than 4 hours annually on average.

Item 2 for Internet Investment Advisers to indicate their eligibility to register with the Commission. An adviser registering with the Commission under the proposed rule would simply check that new box when completing Form ADV.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission believes that there are no rules that duplicate, overlap, or conflict with the proposed rule.

F. Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entities, including (i) establishing different compliance or reporting requirements or timetables that take into account the resources available to small advisers; (ii) clarifying, consolidating, or simplifying compliance and reporting requirements under the proposed rule for small advisers; (iii) using performance rather than design standards; and (iv) exempting small advisers from coverage of all or part of the proposed rule.

Regarding the first alternative, the Commission has considered establishing different compliance or reporting requirements for small advisers. Establishing different compliance or reporting requirements would be inconsistent with our mandate to provide a system of public disclosure of investment adviser information. An Internet Investment Adviser that is a small entity, however, by the nature of its business, would likely spend fewer resources in completing Form ADV and amendments, and pay lower filing fees, than a larger adviser.

Regarding the second alternative, the Commission has attempted to clarify and simplify compliance and reporting requirements under the proposed rule for all advisers, including small advisers. It does not appear that the proposed rule can be formatted differently for small advisers and still achieve its stated objective of providing relief from multiple state regulation. The proposal has been designed particularly to benefit Internet Investment Advisers, which are, we believe, generally small entities.

With respect to the third alternative, the proposed rule would permit advisers to use performance rather than design standards to meet certain requirements under the Act. The proposal, for example, does not specify the means by which an adviser must maintain its records to satisfy the recordkeeping requirements of the proposed rule.

Regarding the fourth alternative, the Commission has considered exempting small advisers from the proposed rule. Such an exemption would be inconsistent with the intended purpose of the proposal, which is to provide regulatory relief from multiple state regulatory requirements. Small advisers are the primary intended beneficiaries of this rulemaking relief.

The Commission has considered the above alternatives in the context of the proposed rule, and, after taking into account the resources available to Internet Investment Advisers that are small entities and the potential burden the proposal could place on these advisers, has concluded that the alternatives would not accomplish the stated objectives of the proposal.

G. Solicitation of Comments

We encourage written comments on matters discussed in this IRFA.

- In particular, how many small entities would be affected by the proposed rule?
- What burdens would the proposed rule impose on small advisers?
- Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact.

VII. Statutory Authority

We are proposing rule 203A–2(f) pursuant to our authority set forth in section 203A(c) of the Investment Advisers Act of 1940. [49] Section 203A(c) of the Act gives us the authority, by rule or regulation upon our own motion, or by order upon application, to permit registration with us of any person or class of persons to which the application of the prohibition on Commission registration would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of section 203A.

List of Subjects in 17 CFR Parts 275 and 279

Investment advisers, Reporting and recordkeeping requirements.

Text of Proposed Rule Amendments

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulation is proposed to be amended as follows:

[49] 15 U.S.C. 80b–3a(c).

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

1. The authority citation for part 275 continues to read in part as follows:

Authority: 15 U.S.C. 80b–2(a)(11)(F), 80b–2(a)(17), 80b–3A, 80b–4, 80b–6(4), 80b–6a, 80b–11, unless otherwise noted.

* * * * *

2. Section 275.203A–2 is amended by adding paragraph (f) to read as follows:

§ 275.203A–2 Exemptions from prohibition on Commission registration.

* * * * *

(f) *Internet investment advisers.* (1) An investment adviser that:

(i) Conducts substantially all of its advisory business through an interactive website on the Internet; and

(ii) Maintains in an easily accessible place, for a period of not less than five years from the filing of a Form ADV that includes a representation that the adviser is eligible to register with the Commission under paragraph (f)(1)(i) of this section, a record demonstrating that substantially all of its advisory business has been conducted through an interactive website.

(2) For purposes of this section:

(i) *Interactive website* means a website in which computer software-based models or applications provide investment advice to clients based on information each client supplies through the website.

(ii) *Substantially all* means that at least 90 percent of the investment adviser's clients obtain their investment advice from the adviser exclusively through the interactive website.

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

3. The authority citation for part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b–1, *et seq.*

4. Form ADV (Referenced in § 279.1), Part 1A, Item 2 is amended by revising the introductory text of paragraph A, paragraph A.(10) and A.(11), and by adding paragraph A.(12) to read as follows:

Note: The text of Form ADV does not and the amendment will not appear in the Code of Federal Regulations.

Form ADV

* * * * *

Part 1A

* * * * *

Item 2 SEC Registration

* * * * *

A. To register (or remain registered) with the SEC, you must check at least one of the Items 2.A(1) through 2.A(11), below. If you are submitting an annual updating amendment to your registration and you are no longer eligible to register with the SEC, check Item 2.A(12). You:

* * * * *

☐ (10) are an Internet investment adviser relying on rule 203A–2(f);

☐ (11) have received an SEC order exempting you from the prohibition against registration with the SEC.

If you checked this box, complete Section 2A(11) of Schedule D.

☐ (12) are no longer eligible to register with the SEC.

* * * * *

5. Form ADV (Referenced in § 279.1), Schedule D is amended by revising the heading ''Section 2.A(10)'' to read ''Section 2.A(11)''.

By the Commission.

Dated: April 12, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9585 Filed 4–18–02; 8:45 am]

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LIST OF PUBLIC LAWS

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 1499/P.L. 107–157

District of Columbia College Access Improvement Act of 2002 (Apr. 4, 2002; 116 Stat. 118)

H.R. 2739/P.L. 107–158

To amend Public Law 107-10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes. (Apr. 4, 2002; 116 Stat. 121)

H.R. 3985/P.L. 107–159

To amend the Act entitled ''An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases'', approved August 9, 1955, to provide for binding arbitration clauses in leases and contracts related to reservation lands of the Gila River Indian Community. (Apr. 4, 2002; 116 Stat. 122)

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