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Federal Register

8–28–02 Wednesday
Vol. 67 No. 167 Aug. 28, 2002
Pages 55101–55318

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FVO2–905–2 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Change in the Minimum Maturity Requirements for Fresh Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule increases the minimum maturity requirements for fresh grapefruit under the marketing order for Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida (order). The Citrus Administrative Committee (Committee), which locally administers the order, recommended this change for Florida grapefruit. This rule increases the minimum maturity requirements from a 7.5 percent soluble solids (sugars) and a 7.0 to 1 solids to acid ratio with a sliding scale minimum ratio of 6.0 to 1, to an 8.0 percent soluble solids (sugars) and a 7.5 to 1 solids to acid ratio with a sliding scale minimum ratio of 7.2 to 1. This change provides a sweeter grapefruit taste and should increase consumer demand for fresh grapefruit.

DATES: Effective August 29, 2002; comments received by October 28, 2002 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or e-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Post Office Box 1035, Moab, Utah 84532; telephone: (435) 259–7988, Fax: (435) 259–4945; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the minimum maturity requirements for fresh Florida grapefruit. This change increases the current minimum maturity from a 7.5 percent soluble solids (sugars) and a 7.0 to 1 solids to acid ratio with a sliding scale minimum ratio of 6.0 to 1, to an 8.0 percent soluble solids (sugars) and a 7.5 to 1 solids to acid ratio with a sliding scale minimum ratio of 7.2 to 1. This change results in a sweeter grapefruit taste and should increase consumer demand for fresh grapefruit. This action was recommended by the Committee at its meeting on May 22, 2002, during which thirteen Committee members voted in favor of this change, and three voted against.

Section 905.52 of the order provides the authority for the establishment of grade and size requirements for Florida citrus. One element of grade is maturity. Section 905.306 of the order specifies, in part, the minimum grade requirements for grapefruit. The current grade requirement for Florida grapefruit is a U.S. No. 1. The specifics of this grade requirement are listed under the U.S. Standards for Grades of Florida Grapefruit (7 CFR 2851.750–2851.784).

The U.S. Standards for Grades of Florida Grapefruit (Standards) specify minimum and/or maximum allowances for discoloration, firmness, color, texture, form/shape, varietal characteristics, and maturity. The Standards define maturity by referencing the 1995 Florida Department of Citrus (FDOC) Florida Citrus Code, Chapter 601 and the FDOC Official Rules Affecting the Florida Citrus Industry, Part 1, Chapter 20–13. The 1995 Florida Citrus Code specifies a minimum maturity of a 7.5 percent soluble solids (sugars) and a 7.0 to 1 ratio of solids to acid. The FDOC also employs a Citrus Fruit Maturity Chart as

a sliding scale to determine equivalent soluble solids and ratio maturity combinations. The sliding scale allows for a range of soluble solids and ratio combinations that are comparable to the required minimum maturity level rather than just a fixed minimum requirement. With the sliding scale, a higher level of soluble solids (sugars) allows for a lower solids to acid ratio. In other words, grapefruit with higher soluble solids can have a lower solids to acid ratio and meet the minimum maturity requirements.

This rule increases the minimum maturity requirements for fresh Florida grapefruit. At its meeting on May 22, 2002, the Committee recommended increasing the current minimum maturity level for fresh grapefruit from a 7.5 percent soluble solids (sugars) and a 7.0 to 1 solids to acid ratio with a sliding scale minimum ratio of 6.0 to 1 as specified in the Standards, to an 8.0 percent soluble solids (sugars) and a 7.5 to 1 solids to acid ratio with a sliding scale minimum of 7.2 to 1.

The Committee had formed a subcommittee to examine the maturity issue, the Subcommittee on Grapefruit Maturity Standards (subcommittee). The subcommittee determined that the minimum maturity requirements for fresh grapefruit should be increased and forwarded this idea to the full Committee at the May meeting. The subcommittee's presentation to the full Committee focused on declining fresh grapefruit sales, which it attributed to consumer dissatisfaction with taste. Furthermore, it discussed the potential to increase consumer demand through increasing the sweetness of grapefruit, particularly early in the season.

The subcommittee found that consumers would be more likely to make repeat purchases if their initial taste experience of early season grapefruit were positive. By increasing the minimum maturity requirements, the industry could meet consumer demand for a sweeter tasting fruit. The subcommittee based its proposal to increase the minimum maturity standard on recent market research studies and cited industry requests and support for a higher maturity standard.

The research studies referenced by the subcommittee were undertaken by the FDOC, or at their request, and were designed to determine those factors causing sales of fresh grapefruit to decline and those that cause demand to increase. Much of the decline in sales was attributed to consumer dissatisfaction with bitter tasting grapefruit early in the harvest season which, in turn, resulted in consumer reluctance to make repeat purchases. The studies indicate consumer demand for grapefruit would increase if their initial taste experience were positive. In other words, repeat purchases are linked to consumer satisfaction with taste (Florida Department of Citrus, Consumer Research, February 20, 2002, conducted by a market research group; Grapefruit Sensory Evaluation Study, February 19, 1997, conducted by the FDOC; FDOC Grapefruit Strategy Working Session, February 20, 2002, conducted by a market research group).

The subcommittee stated there was also substantial industry support for an increase in the minimum maturity requirements, and referenced memos received by the Committee in support of such an increase. The memos received were from several industry groups representing nearly 80 percent of fresh grapefruit shipments. The memos specified the need to increase sales and identified an increased maturity standard as a means to improve consumer demand, particularly through repeat purchases.

The Committee, in its deliberations following the subcommittee's presentation, discussed the state of the fresh grapefruit market. Discussion centered around declining market demand and the need to improve consumer purchasing patterns, particularly for early season and repeat purchases. The Committee drew from information provided by the subcommittee, market studies, and from Committee members, and determined that providing the consumer with a sweeter, more mature grapefruit will likely result in improved fresh fruit sales.

The purpose of this action is to help stabilize the market for Florida grapefruit and improve producer returns by strengthening demand and increasing the number of repeat purchases of grapefruit. Market research indicates this rule provides the consumer with a grapefruit that is closer to consumer expectations in terms of sweetness, thereby resulting in an increased demand for fresh grapefruit.

According to the FDOC Florida Citrus Outlook 2001–2002 report, domestic consumption of fresh Florida grapefruit has been declining in recent years, dropping from 7-pounds per capita consumption in the early 1980's to 6-pounds per capita consumption in the late 1990's. The Economic Research Service, USDA, listed per capita domestic consumption of grapefruit as 5.19 pounds in 2000.

This reduced consumption is reflected in the shipping data for fresh grapefruit. The Committee's 2000–2001 Annual Statistical Report indicates shipments of Florida fresh grapefruit have declined 28 percent over the past five seasons, dropping from 22.1 million boxes (1⅗ bushels) in 1996–1997, to 15.9 million boxes in 2000–2001. For the same period, FDOC reports show that domestic consumption of fresh grapefruit has declined nearly 38 percent, from 18.6 million cartons (⅘ bushel) during the 1996–1997 season to 11.6 million cartons for the 2000–2001 season.

The FDOC also notes that Florida's share of the U.S. fresh grapefruit market has declined from 71.7 percent in 1990–1991, to 44.0 percent in 2001–02. Much of this lost market share has gone to Texas. Texas shipped an estimated 273 million pounds of fresh grapefruit to the domestic and Canadian markets in 2000–2001 compared to 184.3 million pounds in 1995–96, and accounted for over 31 percent of those market shipments in 2000–2001, up from 17 percent in 1995–96. Texas had a 32 percent increase in shipments to those markets over the 1995–96 season. During the same period, to the same markets, Florida fresh grapefruit shipments decreased by 32 percent.

The Committee raised the question as to the minimum maturity requirements for fresh Texas grapefruit. One reason for the increasing demand for Texas grapefruit may be its sweeter taste. Texas currently has a higher minimum maturity requirement than Florida. Minimum maturity requirements for fresh Texas grapefruit include a 9.0 percent soluble solids (sugars) and a 7.2 to 1 solids to acid ratio.

The Committee recognized that Florida grapefruit production has been declining along with demand. However, the lower market supply has not stabilized market prices. Florida accounts for nearly 80 percent of total domestic grapefruit production. Production for the 2000–2001 season was approximately 46 million boxes. This compares to production of approximately 47.1 million boxes for the 1998–99 season, and is substantially less than the 55.8 million boxes produced in 1996–97. While this represents nearly an 18 percent decrease in Florida grapefruit production, lower supply did not result in higher producer returns as demand for fresh Florida grapefruit also declined during this period.

The weakening demand for Florida fresh grapefruit has contributed to declining on-tree prices and has led to economic abandonment of fruit. According to the National Agricultural Statistical Service, on-tree prices for fresh Florida grapefruit, fell from an average of $6.52 per box in 1999–2000

to an average of $4.80 per box in 2000–2001. Due to low economic returns the past several years, some producers have resorted to leaving portions of their crops unharvested. Economic abandonment has impacted the Florida grapefruit industry for four of the past six seasons, reaching an apex of 12 percent of total production in the 1997–1998 season. Abandoned fruit accounted for 4 percent of production in the 2000–2001 and the 2001–02 seasons.

The Committee believes the over shipment of smaller sized red seedless grapefruit contributes to poor returns and lower prices. To address this situation the Committee has recommended weekly percentage of size regulation under § 905.153 for the last five seasons. This regulation limits the volume of small sizes entering the market during the regulated period. Under weekly percentage of size regulation, f.o.b. prices and on-tree returns increased and movement stabilized as compared to years with no percentage of size regulation. Weekly percentage of size regulation has helped improved the situation, but it has not solved all the problems. Consequently, the Committee believes it is important to also address the demand side of the market.

The Committee's recommendation to increase the minimum maturity requirements recognizes that due to loss of market demand, decreasing production and limiting shipments alone cannot adequately stabilize weakening prices. In its efforts to achieve market stabilization, the Committee has turned its focus to increasing consumer demand. The Committee's recommendation to increase the minimum maturity requirements seeks to increase demand by meeting consumer preferences with a sweeter tasting grapefruit.

The Committee's recommendation is supported by several recent market studies. FDOC research on consumer purchasing attitudes towards grapefruit demonstrates the need for increasing sweetness in grapefruit taste. Research results indicate that taste is a crucial factor in consumer grapefruit purchasing patterns, particularly repeat purchases (Grapefruit Sensory Evaluation Study, February 19, 2002, conducted by the FDOC).

One study, compiled in April of 2002 by the FDOC, Blue Ribbon Committee on Grapefruit, links the 30-percent decline in fresh grapefruit sales in less than 10 years to customer attrition and consumer perceptions of inconsistent taste. Another study conduced by Opinion Dynamics Corporation, a market research group (February 20, 2002), states that taste is by far the most important consideration in consumer purchases of fruit.

A ''Grapefruit Sensory Evaluation Study'' conducted by the FDOC in 1997, concluded that the major determinant of repeat purchases of fresh grapefruit was the flavor of the consumer's first grapefruit purchase of the season. The results of this study indicate a strong correlation between sweetness of flavor and consumer's willingness to make additional purchases. The more-bitter the consumer's initial grapefruit experience, the less likely the consumer was to make an immediate repeat purchase. Conversely, increased sweetness resulted in increased repeat purchases of fresh grapefruit.

An additional study prepared by the Compendium Group, a market research group, for the FDOC Grapefruit Strategy Working Session, February 2002, also stressed the importance of consumer perceptions and expectations in purchasing decisions. According to this study, consumers associate sweetness of grapefruit flavor to the overall quality of the fruit. The study states ''consumers want consistent fruit that tastes the way they want it.''

In addition to the abovementioned market research, there is strong industry support for an increase in the minimum maturity requirements. Industry support for an increase in the minimum maturity requirements was indicated through memos representing nearly 80 percent of Florida grapefruit production. Indian River Citrus League requested, in a memo to the Committee, a raise in the minimum maturity to 8.0 percent soluble solids and a 7.2 to 1 solids to acid ratio, a ratio slightly lower than ultimately recommended by the Committee. Florida Citrus Packers and the Peace River Citrus Growers Association supported an even larger increase in the minimum maturity standard. Several Committee members also expressed strong support for an increase.

The Committee's recommendation to raise the minimum maturity standard incorporates its belief that a sweeter fresh grapefruit is more attractive to consumers, and that consumer satisfaction with taste will lead to an increase in repeat purchases. In turn, greater demand for fresh grapefruit benefits the industry as a whole, as increased demand will likely help stabilize market prices.

While the recommendation to increase the minimum maturity standard was accepted by a majority of Committee members, some raised concerns about the impact of the higher standards on the different grapefruit producing regions and on early market sales. These concerns provided the basis for the three Committee members who opposed the Committee's recommendation.

One concern was that grapefruit production in areas lying to the north of the dominant, central grapefruit growing region could be disadvantaged due to differences in growing conditions. One member indicated there were some areas in the northern production region that may not be able to reach the higher maturity standard regardless of the use of a sliding scale, and, therefore, be excluded from the market. Variety of rootstock and geographic differences in soil and climate were listed as possible reasons for some production not being able to meet the higher standard.

Although some fruit may not meet the higher maturity standard, it is expected that it represents a very small percentage of the overall crop. The Committee's recommendation represents only a slight increase in the minimum maturity and includes a sliding scale. The sliding scale provides producers additional flexibility in meeting the higher standard. Also, the sliding scale helps producers in differing regions of the production area to meet the higher maturity requirements without compromising the desired outcome of a sweeter grapefruit taste.

Florida citrus maturity samples also indicate that the majority of Florida grapefruit will meet the higher maturity level, albeit later in the season. Therefore, while some fruit may require longer maturing periods before harvest, the majority of Florida citrus is expected to meet the higher standard at some point during the season. It is estimated that less than 2 percent of the Florida grapefruit crop will not make the higher maturity in a typical growing season.

Committee members also countered that, although a small percentage of Florida grapefruit production may not be able to meet the higher maturity standard, this percentage pales in comparison to the amount of grapefruit production currently left unharvested due to low economic returns. Several million boxes of grapefruit were left on the tree four of the past six seasons.

Another concern raised was that the higher maturity standard requires some fruit to be left on the tree longer than current industry practice, and that some producers will then forfeit the more lucrative early-season sales. A concern over a potential loss of competitive advantage was also voiced by the Gulf Citrus Growers Association (GCGA), which indicated in a memo to the Committee its opposition to an increase

in the maturity standard. The southern production region has historically benefited from early-season sales as climate conditions allow their grapefruit production to mature sooner than the rest of the production area.

The FDOC maturity sampling results indicate that while soluble solids (sugars) levels are on average well over 8.0 from the onset of the grapefruit harvest season, average grapefruit ratio solids to acid levels in Florida grapefruit generally do not increase over 7.0 to 1 until the month of October, nearly one month after the traditional harvest season begins. Hence, a portion of Florida grapefruit crop will not meet the higher maturity requirements until slightly later in the season. However, maturity samples also indicate that meeting the increased maturity requirements later in the season is practicable for the majority of the Florida grapefruit industry as average soluble solids and solids to acid ratio levels are consistently above the recommended minimum threshold.

While the recommended increase in minimum maturity could cause a delay in some fruit being released into the higher priced, early-season market, the Committee pressed the importance of meeting consumer expectations of flavor in order to secure repeat purchases. There is a push to get fruit into the market early to take advantage of high prices available at the beginning of the season. However, early fruit tends to be less mature. The availability of this early, less mature fruit can negatively impact repeat purchases and reduce demand in the long term. In addition, the higher maturity requirements apply to all Florida fresh grapefruit. This change will impact of the entire industry, not just individual regions. Any harvesting delays resulting from this increase in maturity will impact all regions of the production area.

Committee members stated that while an increase in the minimum maturity standard could delay the release of some grapefruit onto the market, the potential opportunity costs of losing early-season sales will be more than compensated for by consumers buying grapefruit more frequently due to its sweeter, more appealing taste. Furthermore, the Committee estimated that only a small percentage of total Florida fresh grapefruit shipments will be affected by this change in the minimum maturity standard. In addition, the whole industry benefits from a stronger market demand and increased consumer satisfaction.

Taking into consideration the above concerns, the Committee believes increasing the maturity standard will benefit the industry. The Committee believes the higher maturity requirements will result in a sweeter grapefruit taste and improve producer returns through increased consumer purchases of fresh grapefruit by addressing consumer preferences for a more appealing taste. Moreover, as maturity naturally increases throughout the season, the overall impact on industry shipments will be equal to or less than 2 percent of the total grapefruit crop. Also, the sliding scale allows some flexibility for handlers to meet the higher maturity requirements without compromising the desired sweeter grapefruit taste.

Therefore, this rule raises the minimum maturity requirements from a 7.5 percent soluble solids (sugars) and a 7.0 to 1 solids to acid ratio with a sliding scale minimum ratio of 6.0 to 1, to an 8.0 percent soluble solids (sugars) and 7.5 to 1 solids to acid ratio with a sliding scale minimum of 7.2 to 1. The sliding scale is based on the FDOC Citrus Fruit Maturity Chart, and is as follows:

Minimum total solids (sugars), %	Solids to acid minimum ratio
8.0 to (not including) 9.1	7.50 to 1
9.1 to (not including) 9.2	7.45 to 1
9.2 to (not including) 9.3	7.40 to 1
9.3 to (not including) 9.4	7.35 to 1
9.4 to (not including) 9.5	7.30 to 1
9.5 to (not including) 9.6	7.25 to 1
9.6 and greater	7.20 to 1

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule increases the minimum maturity requirements under the domestic handling regulations, a corresponding change to the import regulations must also be accomplished. A rule making a similar change to the maturity requirements under the import regulations will be issued as a separate action.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued there under, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 75 grapefruit handlers subject to regulation under the order and approximately 11,000 producers of citrus in the regulated area. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida grapefruit during the 2001–02 season was approximately $6.98 per 4/5-bushel carton, and total fresh shipments for the 2000–01 season were estimated at 31.68 million cartons. Approximately 33 percent of all handlers handled 72 percent of Florida grapefruit shipments. Using the average f.o.b. price, at least 66 percent of grapefruit handlers could be considered small businesses under SBA's definition. Therefore, the majority of Florida grapefruit handlers may be classified as small entities. The majority of Florida grapefruit producers may also be classified as small entities.

There has been a significant decline in consumer purchases of fresh Florida grapefruit. The Committee believes that taste is one of the prime factors effecting demand and repeat purchases. This rule increases the minimum maturity requirements from a 7.5 percent soluble solids and a 7.0 to 1 solids to acid ratio with a sliding scale minimum ratio of 6.0 to 1, to an 8.0 percent soluble solids (sugars) and a 7.5 to 1 solids to acid ratio with a sliding scale minimum ratio of 7.2 to 1. The increase results in a sweeter tasting fruit, particularly in early months of the harvest season, and should increase consumer demand for fresh grapefruit. The Committee made its recommendation at its May 22, 2002 meeting, in a vote of thirteen in favor of this change, with three opposed. This rule modifies the grade provisions of § 905.306. Authority for this action is provided in § 905.52 of the order.

The increased minimum maturity requirements results in a sweeter

grapefruit tasting product being released into the marketplace, particularly during the early months of the season. Lower maturity, which often translates into a more tart or bitter grapefruit taste, is typical of early season fresh-picked grapefruit. Market research indicates that a sweeter grapefruit taste is more desirable to consumers and could contribute to more repeat purchases of fresh grapefruit.

A ''Grapefruit Sensory Evaluation Study'' conducted by the FDOC in 1997, concluded that the major determinant of repeat purchases of fresh grapefruit was the flavor of the consumer's first grapefruit purchase of the season. The results of this study indicate a strong correlation between sweetness of flavor and consumer's willingness to make additional purchases. The more-bitter the consumer's initial grapefruit experience, the less likely the consumer was to make an immediate repeat purchase. Conversely, increased sweetness resulted in increased repeat purchases of fresh grapefruit.

The Committee discussed the potential costs associated with this action. It was mentioned that some producers could be disadvantaged by increased costs. Such costs may include, for example, the need for additional maturity checks and fruit that does not meet the higher maturity requirements.

The changes in this rule may require some producers to run additional maturity checks prior to harvest and shipping to ensure maturity. While additional maturity checks could be required for some, such checks are considered a standard practice within the industry and are not expected to result in significant increased costs to producers. Additional maturity tests could be avoided by simply delaying the harvest of the groves in question. Also, the overall impact of this change on shipments is expected to be minimal. Because grapefruit continues to mature throughout the season, the overall impact on industry shipments should be small, with only a small part of the grapefruit crop, equal to or less than 2 percent of overall production, possibly not meeting the increased maturity. The sliding scale also provides some additional flexibility to help producers meet the higher maturity requirements.

This rule may necessitate a delay in the onset of the fresh grapefruit harvest for some producers. This may mean selling fruit later in the season, and possibly missing the higher prices typically available in the early-season. However, the higher maturity requirements apply to all Florida fresh grapefruit. This change will impact on the entire industry, not just individual regions. Any harvesting delays resulting from this increase in maturity will impact all regions of the production area.

In addition, it is anticipated that this change will result in higher consumer satisfaction and more repeat purchase, which should strengthen demand and stabilize prices. Therefore, the Committee believes the benefits gained from increased sales as a result of more frequent consumer purchases outweigh any losses associated with slightly lower prices received for shipments delayed due to increased maturity requirements. Any additional harvesting costs should also be compensated for through increased sales and stability in on-tree prices.

The purpose of this rule is to help stabilize the market and improve producer returns by increasing the number of repeat purchases of grapefruit, particularly earlier in the season. Based on the information given above, market research indicates this rule provides the consumer with a product that is closer to consumer expectations in terms of sweetness of flavor, therefore resulting in an increased demand for fresh grapefruit. The opportunities and benefits of this rule are expected to be available to all grapefruit handlers and producers regardless of their size of operation.

The Committee considered alternatives to taking this action. One alternative considered was a fixed maturity rate near the level identified in the market research studies of a level of 8.5 percent soluble solids and an 8.0 to 1 solids to acid ratio or higher. Committee members believed this option would be too drastic of a change to effectuate in one season. While market research demonstrates that consumer tastes prefer a higher soluble solids (sugars) and ratio combination and sweeter taste, many producers would not be able to achieve that level until much later into the season. Therefore, this option was rejected.

Another alternative considered was a fixed maturity rate of 8.0 percent soluble solids and a 7.5 to 1 solids to acid ratio without the addition of an equivalent soluble solids and solids to acid ratio sliding scale. However, due to geographical and climactic differences between varying regions in the production area, some Committee members believed that some producers would have more difficulty in achieving the fixed rate, therefore disproportionately foregoing the more lucrative early season sales. Therefore, this alternative was also rejected.

The Committee also discussed leaving the regulations as currently issued. However, the majority of Committee members agreed that some change to minimum maturity was necessary to improve consumer demand for fresh grapefruit and to help them compete in the present market. Consequently, this alternative was also rejected.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large grapefruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. The USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. However, as previously stated, grapefruit have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 CFR 1621 *et seq.*). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

The Committee's meeting was widely publicized throughout the citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 22, 2002, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. In addition, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on an increase in the minimum maturity requirements prescribed under the order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective

date of this rule until 30 days after publication in the **Federal Register** because: (1) Handlers will begin shipping grapefruit at the end of August; (2) Florida grapefruit handlers are aware of this issue, which has been widely discussed within the industry; (3) the Committee recommended this change at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

1. The authority citation for 7 CFR parts 905 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

2. Section 905.306 is amended by revising the introductory texts of paragraphs (a) and (b), and adding a new paragraph (e) to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation.

(a) During the period specified in column (2) of Table I, no handler shall ship between the production area and any point outside thereof, in the 48 contiguous States and the District of Columbia of the United States, any variety of fruit listed in column (1) of Table I unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in columns (3) and (4) of table I: *Provided,* That all grapefruit meet the minimum maturity requirements specified in paragraph (e) of this section.

* * * * *

(b) During the period specified in column (2) of Table II, no handler shall ship to any destination outside the 48 contiguous States and the District of Columbia of the United States any variety of fruit listed in column (1) of Table II unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in columns (3) and (4) of Table II: *Provided,* That all grapefruit meet the minimum maturity requirements specified in paragraph (e) of this section.

* * * * *

(e) All grapefruit shipped under the order shall meet minimum maturity requirements of 8.0 percent soluble solids (sugars) and 7.5 to 1 solids to acid ratio or shall comply with one of the alternate equivalent soluble solids and solids to acid ratio combinations set forth in Table III: *Provided,* That the minimum ratio shall not drop below 7.2 even if the soluble solids (sugars) reaches a level higher than 9.6.

TABLE III

Minimum total solids (sugars), %	Solids to acid minimum ratio
8.0 to (not including) 9.1	7.50 to 1
9.1 to (not including) 9.2	7.45 to 1
9.2 to (not including) 9.3	7.40 to 1
9.3 to (not including) 9.4	7.35 to 1
9.4 to (not including) 9.5	7.30 to 1
9.5 to (not including) 9.6	7.25 to 1
9.6 and greater	7.20 to 1

Dated: August 23, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–22008 Filed 8–23–02; 5:03 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–167–AD; Amendment 39–12866; AD 2002–17–01]

RIN 2120–AA64

Airworthiness Directives; Learjet Model 45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Learjet Model 45 airplanes. This action requires pulling the FOOT WARM circuit breaker located on the copilot's circuit breaker panel, and installing a collar on that circuit breaker. This action is necessary to prevent an electrical short circuit between the pilot's and copilot's foot warmers and the composite floorboards, which could result in outgassing of the faceply material of the composite floorboards, and consequent smoke in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective September 12, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 12, 2002.

Comments for inclusion in the Rules Docket must be received on or before October 28, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–167–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–167–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jose R. Flores, Aerospace Engineer, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4133; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has received reports of smoke in the cockpit caused by electrical short circuits between the pilot's and copilot's foot warmers and the composite floorboards. A short circuit in a foot warmer causes electrical current to flow through the metal heelplate of the foot warmer to the composite floorboards. Due to the high resistance of the composite floorboards, the circuit

breaker may not open, or the opening could be significantly delayed.

After the first incident, that occurred on an older design of the foot warmer, the manufacturer re-designed the foot warmer to minimize the potential for this failure mode. After the latest incident, the re-designed foot warmer was evaluated, and was found to have the same potential for an electrical short circuit. This condition, if not corrected, could result in outgassing of the faceply material of the composite floorboard, and consequent smoke in the cockpit.

Explanation of Relevant Service Information

We have reviewed and approved Learjet Alert Service Bulletin SB A45–21–14, dated May 3, 2002, which describes procedures for pulling the FOOT WARM circuit breaker located on the copilot's circuit breaker panel. The alert service bulletin also describes procedures for installation of a collar on the foot warmer circuit breaker to prevent the FOOT WARM circuit breaker from being activated.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent an electrical short circuit in the pilot's and copilot's foot warmers, which could result in outgassing of the faceply material of the composite floorboard, and consequent smoke in the flightdeck. This AD requires pulling the FOOT WARM circuit breaker located on the copilot's circuit breaker panel, and installing a collar on that circuit breaker. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, we may consider additional rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–167–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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:

2002–17–01 Learjet: Amendment 39–12866. Docket 2002–NM–167–AD.

Applicability: Model 45 airplanes, serial numbers 45–005 through 45–213 inclusive; 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 (b) 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 an electrical short circuit between the pilot's and copilot's foot

warmers and the composite floor boards, which could result in outgassing of the faceply material of the composite floorboards, and consequent smoke in the cockpit, accomplish the following:

Circuit Breaker Deactivation and Collar Installation

(a) Within 25 flight hours after the effective date of this AD, pull the FOOT WARM circuit breaker located on the copilot's circuit breaker panel, and install a collar on the FOOT WARM circuit breaker, per Learjet Alert Service Bulletin SB A45–21–14, dated May 3, 2002.

Alternative Methods of Compliance

(b) 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, Wichita 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, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Learjet Alert Service Bulletin SB A45–21–14, dated May 3, 2002. 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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on September 12, 2002.

Issued in Renton, Washington, on August 20, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–21707 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–30–AD; Amendment 39–9738; AD 96–18–14]

RIN 2120–AA64

Airworthiness Directives; Hartzell Propeller Inc. HC–A3V, HC–B3M, HC–B3T, HC–B4M, HC–B4T, and HC–B5M Series Propellers; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final airworthiness directive (AD), which was published in the **Federal Register** on September 11, 1996, (61 FR 47809). The regulations related to Hartzell Propeller Inc. HC–A3V, HC–B3M, HC–B3T, HC–B4M, HC–B4T, and HC–B5M series propellers blade inspection and replacement.

EFFECTIVE DATE: October 16, 1996.

FOR FURTHER INFORMATION CONTACT: Tomaso DiPaolo, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 E. Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7031; fax (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Background

The final AD 96–18–14 that is the subject of these corrections affects owners and operators of Hartzell Propeller Inc. HC–A3V, HC–B3M, HC–B3T, HC–B4M, HC–B4T, and HC–B5M series propellers who are required to perform hub replacements over a 10-year time frame with a concurrent blade and blade clamp inspection.

Need for Correction

As published, AD 96–18–14 (61 FR 47809, September 11, 1996) contains errors that may prove to be misleading and need to be clarified.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Accordingly, 14 CFR part 39 is corrected by making the following correcting amendments:

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 [Corrected]

2. Amend AD 96–18–14 in the Compliance section as follows:

a. Revise paragraph (c)(3) as set forth below; and

b. In Table 1 at the end of paragraph (c)(5), in the entry for Hub Model Number HC–B4MP–3, under the column heading ''Sept. 2002'', revise ''1394–3033'' to read ''1394–2034'', and in the entry for Hub Model Number HC–B5MP–5, under the column heading ''March 2002'', remove ''5–6'', and under the column heading ''Sept. 2002'', remove ''7–8''.

96–18–14 Hartzell Propeller Inc.: Amendment 39–9738, Docket No. 95–ANE–30.

* * * * *

Compliance: * * *

(c) * * *

(3) The two-letter prefix of some existing propeller hub serial numbers may be followed by a third letter 'A.' The presence or absence of this letter has no significance in determining compliance.

* * * * *

Issued in Burlington, MA, on August 20, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–21831 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–48–AD; Amendment 39–12867; AD 2002–17–02]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), that is applicable to certain Pratt & Whitney JT8D series turbofan engines. That AD currently requires revisions to the Time Limits Section (TLS) of the manufacturer's Engine Manuals (EM's) to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. This amendment requires modification of the airworthiness limitations section of the manufacturer's manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection

requirements. A Federal Aviation Administration (FAA) study of in-service events involving uncontained failures of critical rotating engine parts indicated the need for mandatory inspections. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. The actions specified by this AD are intended to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective February 24, 2003.

ADDRESSES: Information regarding this action may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–21–08, Amendment 39–11940 (65 FR 65731, November 2, 2000), which is applicable to Pratt & Whitney JT8D series turbofan engines, was published in the **Federal Register** on January 7, 2002, (67 FR 697). Subsequently, a supplemental proposal, which corrected the engine applicability in the proposal published on January 7, 2002, was published in the **Federal Register** on February 14, 2002 (67 FR 6888). That action proposed to require modifications to the airworthiness limitations section of the manufacturer's manual and an air carrier's approved continuous airworthiness maintenance program to include required enhanced inspections of selected critical life-limited parts at each piece part exposure.

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.

Correction of Errors

Several commenters request correction of errors in the applicability of the notice of proposed rulemaking (NPRM).

The FAA agrees. Most of the applicability errors were corrected with the issuance of the supplemental NPRM; however, in paragraph (b) the engine manual referenced to perform the inspections was incorrectly identified. The referenced Engine Manual is corrected corrected in this final rule.

Publication Date

One commenter requests a 180-day period between the publication date and the effective date of the AD, similar to AD 2000–21–08.

The FAA agrees. The effective date of this AD has been extended to 180 days after publication to allow time for the specific procedures to be published. The extra time, until the AD becomes effective, should also allow the manufacturer to issue a manual revision.

Part Numbers in the AD

One commenter believes that the FAA has reversed its position relative to not incorporating part numbers in the AD.

The FAA partially agrees. As the commenter notes, the FAA had previously viewed the engine manual for this engine model to be structured so as to make reference to ''all'' part numbers impractical. The FAA has again reviewed the engine manual and the proposed new changes and has determined that individual part numbers may be removed. Therefore, this AD references ''all'' part numbers, as with other engine lines. The decision not to include part numbers was originally made to accommodate the industry. The removal of part numbers eliminates the requirement to modify the TLS and Continuous Airworthiness Maintenance programs every time a new part number is introduced by the manufacturer for those parts covered by the AD.

Proposed Cleaning and Inspection Procedures

Two commenters express concern over the proposed cleaning and inspection procedures of the assembled high pressure turbine (HPT) and shaft assembly. Residual alkaline cleaning solution may introduce corrosion in the mating surfaces of the disk, shaft, or bolts, or damage the coated surfaces of the shaft during the subsequent rinse cycle. Entrapped fluorescent penetrant inspection (FPI) fluid may lead to chemical degradation of the disk shaft assembly.

The FAA disagrees. The standard practice operating procedure for alkaline cleaning of the first stage HPT disk and shaft assembly requires a fresh water rinse after performing the alkaline cleaning. When properly rinsed, the residual alkaline cleaning solution is removed. Many overhaul shops have been using the alkaline and subsequent rinse on this part geometry and more complex part geometries for years without any reports of detrimental effects caused by the alkaline solution. In additon, all solutions used in the FPI process, penetrants, emulsifiers and developers, are not corrosive to engine parts and have passed corrosion compatibility testing. Based on the above supporting data, the FAA has determined that the proposed cleaning and inspection processes meet the applicable airworthiness requirements, and are therefore approved for the first stage HPT disk and shaft assembly as stated in the Engine Manual, 481672, Section 72–52–04, inspection ''04.

Engine Manual 72–52–02, Inspections—04, Figure 801

One commenter requests a change to the view of Figure 801 of inspection—04. The present view displays a disassembled view of the disk and shaft assembly, which could lead to confusion as the inspection applies to the assembly.

The FAA agrees. The manufacturer has agreed to change Figure 801 to show the first stage HPT disk and shaft assembly in place of the disassembled view currently contained in the inspection procedure.

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.

Economic Analysis

There are approximately 5,821 Pratt & Whitney JT8D series turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 5,821 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per engine to perform the required enhanced inspections. The average labor rate is $60 per work hour. The cost of the enhanced inspections per engine is approximately $480 per year while the approximate total cost to the U.S. fleet will be $2,794,080 per year.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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 the 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 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, 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 removing Amendment 39–11940 (65 FR 65731, November 2, 2000) and by adding a new airworthiness directive to read as follows:

2002–17–02 Pratt & Whitney: Docket No. 98–ANE–48–AD. Supersedes AD 2000–21–08, Amendment 39–11940.

Applicability

This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR series turbofan engines, installed on but not limited to Boeing 727 and 737 series, and McDonnell Douglas DC–9 series airplanes.

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

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, do the following:

Inspections

(a) Within 30 days after the effective date of this AD, revise the Time Limits Section (TLS) of the JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR Turbofan Engine Manual, part number 481672, and for air carrier operations revise the approved continuous airworthiness maintenance program, by adding the following:

''Critical Life Limited Part Inspection

A. Inspection Requirements

(1) This section has the definitions for individual engine piece parts and the inspection procedures which are necessary when these parts are removed from the engine.

(2) It is necessary to do the inspection procedures of the piece parts in paragraph B when:

(a) The part is removed from the engine and disassembled to the level specified in paragraph B and

(b) The part has accumulated more than 100 cycles since the last piece part inspection, provided that the part was not damaged or related to the cause for its removal from the engine.

(3) The inspections specified in this paragraph do not replace or make not necessary other recommended inspections for these parts or other parts.

B. Parts Requiring Inspection

Note: Piece part is defined as any of the listed parts with all the blades removed.

Description	Section	Inspection
Hub (Disk), 1st Stage Compressor:		
Hub Detail—All P/N's	72–33–31	–02, –03, –04
Hub Assembly—All P/N's	72–33–31	–02, –03, –04
2nd Stage Compressor:		
Disk—All P/N's	72–33–33	–02
Disk Assembly—All P/N's	72–33–33	–02
Disk, 13th Stage Compressor—All P/N's	72–36–47	–02
HP Turbine Disk, First Stage w/integral Shaft All P/N's	72–52–04	–03
HP Turbine, First Stage, w/ Separable shaft:		
Rotor Assembly—All P/N's	72–52–02	–04
Disk—All P/N's	72–52–02	–03
Disk, 2nd Stage Turbine—All P/N's	72–53–16	–02
Disk, 3rd Stage Turbine—All P/N's	72–53–17	–02
Disk (Separable), 4th Stage Turbine—All P/N's	72–53–15	–02
Disk (Integral Disk/Hub), 4th Stage Turbine—All P/N's	72–53–18	–02''

(b) Except as provided in paragraph (c) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections must be performed using the TLS of the PW JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR Turbofan Engine Manual.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(d) 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 done.

Continuous Airworthiness Maintenance Program

(e) FAA-certificated air carriers that have an approved continuous airworthiness maintenance program in accordance with the record keeping requirement of § 121.369 (c) of the Federal Aviation Regulations (14 CFR 121.369 (c)) of this chapter must maintain records of the mandatory inspections that result from revising the Time Limits section of the Instructions for Continuous Airworthiness (ICA) and the air carrier's continuous airworthiness program. Alternately, certificated air carriers may establish an approved system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by § 121.369 (c) of the Federal Aviation Regulations (14 CFR 121.369 (c)); however, the alternate system must be accepted by the appropriate PMI and require the maintenance records be maintained either indefinitely or until the work is repeated. Records of the piece-part inspections are not required under § 121.380 (a) (2) (vi) of the Federal Aviation Regulations (14 CFR 121.380 (a) (2) (vi)). All other operators must maintain the records of mandatory inspections required by the applicable regulations governing their operations.

Note 3: The requirements of this AD have been met when the engine manual changes are made and air carriers have modified their continuous airworthiness maintenance plans to reflect the requirements in the engine manuals.

Effective Date

(f) This amendment becomes effective on February 24, 2003.

Issued in Burlington, Massachusetts, on August 21, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–21832 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AAL–1]

Revision of Class E Airspace; Cordova, AK; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error on one of the bearings listed in the revised Class E airspace description at Cordova, AK, in the final rule and the coordinates for the exclusion line that were published in the **Federal Register** on July 25, 2002 (67 FR 48545), Airspace Docket 02–AAL–1.

EFFECTIVE DATE: 0901 UTC, October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Derril Bergt, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–2796; fax: (907) 271–2850; e-mail: *Derril.ctr.Bergt@faa.gov.* Internet address: *http://www.alaska.faa.gov/at* or at address *http://162.58.28.41/at.*

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 02–18620, Airspace Docket 02–AAL–1, published on July 25, 2002 (67 FR 48545) revised the Class E airspace area at Cordova, AK. The verbiage ''* * * 060° bearing from the Glacier River NDB extending from the 4.1-mile radius to 6 miles northeast * * *'' should read ''* * * 114° bearing from the Glacier River NDB extending from the 4.1-mile radius to 6 miles southeast * * *'' and the verbiage ''* * * from lat. 60° 31′ 00″ N, long. 145° 20′ 00″ W; to lat. 60° 31′ 03″ N, long. 145° 20′ 59″ W.'' should read ''* * * from lat. 60° 31′ 03″ N, long. 145° 20′ 59″ W; to lat. 60° 32′ 45″ N, long. 145° 33′ 43″ W.'' This action corrects these errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the Class E description listed for the Cordova, Merle K. (Mudhole) Airport as published in the **Federal Register** on July 25, 2002 (67 FR 48545), (**Federal Register** Document 02–18620), is corrected as follows:

§ 71.1 [Corrected]

1. On page 48546, in column one, the Class E airspace description for Cordova, AK, is corrected to read as follows:

* * * * *

AAL AK E2 Cordova, AK [Corrected]

Cordova, Merle K. (MUDHOLE) Smith Airport, AK
(Lat. 60° 29′ 31″ N., long. 145° 28′ 39″ W.)
Glacier River NDB
(Lat. 60° 29′ 56″ N., long. 145° 28′ 28″ W.)

Within a 4.1 mile radius of the Merle K. (Mudhole) Smith airport and within 2.1 miles each side of the 222° bearing from the Glacier River NDB extending from the 4.1 mile radius to 10 miles southwest of the airport and within 2 miles either side of the 114° bearing from the Glacier River NDB extending from the 4.1-mile radius to 6 miles southeast of the airport and within 2.2 miles each side of the 142° bearing from the NDB extending from the 4.1-mile radius to 10.4 miles southeast of the airport, excluding that airspace north of a line from lat. 60° 31′ 03″ N, long. 145° 20′ 59″ W; to lat. 60° 32′ 45″ N, long. 145° 33′ 43″ W.

* * * * *

Issued in Anchorage, AK, on August 5, 2002.

Stephen P. Creamer,

Assistant Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 02–21134 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30325; Amdt. No. 3019]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provided safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective August 28, 2002. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 28, 2002.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The Flight Inspection Area Office which originated the SIAP; or,

4. The Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125); telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on August 16, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

2. Part 97 is amended as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective October 3, 2002*

Batesville, AR, Batesville Regional, SDF RWY 7, Amdt 8A, CANCELLED
Norton, KS, Norton Muni, NDB RWY 16, Orig
Springhill, LA, Springhill, NDB RWY 35, Orig, CANCELLED
Springhill, LA, Springhill, NDB RWY 36, Orig
St. Louis, MO, Lambert—St. Louis Intl, VOR/DME RWY 17, ORIG–A, CANCELLED
Fremont, NE, Fremont Muni, VOR RWY 13, Amdt 1
Fremont, NE, Fremont Muni, NDB RWY 13, Amdt 3
Grant, NE, Grant Muni, VOR/DME RWY 15, ORIG
Manchester, NH, Manchester, RNAV (GPS) RWY 6, Orig
Manchester, NH, Manchester, RNAV (GPS) RWY 24, Orig
Manchester, NH, Manchester, GPS RWY 6, Orig-A, CANCELLED
Aguadilla, PR, Rafael Hernandez, VOR RWY 8, Amdt 6
Aguadilla, PR, Rafael Hernandez, VOR/DME RWY 8, Amdt 2
Aguadilla, PR, Rafael Hernandez, RNAV (GPS) RWY 8, Orig
Aguadilla, PR, Rafael Hernandez, GPS RWY 8, Orig, CANCELLED
Andrews, SC, Robert F. Swinne, NDB RWY 36, Orig
Baytown, TX, Baytown, VOR RWY 14, Amdt 1, CANCELLED
Baytown, TX, Baytown, GPS RWY 14, Orig, CANCELLED
Baytown, TX, Baytown, GPS RWY 32, Orig, CANCELLED
Baytown, TX, Baytown, VOR RWY 32, Amdt 1, CANCELLED

Gordonsville, VA, Gordonsville Muni. NDB OR GPS RWY 23, Amdt 1, CANCELLED
Orange, VA, Orange County, NDB RWY 7, Amdt 1A, CANCELLED
Tomahawk, WI, Tomahawk Regional, VOR/DME–A, Amdt 1
Jackson, WY, Jackson Hole, ILS RWY 18, Amdt 8

** * * Effective November 28, 2002*

Charleston, SC, Charleston AFB/Intl, VOR/DME OR TACAN RWY 3, Amdt 14
Immokalee, FL, Immokalee, VOR OR GPS RWY 18, Amdt 5

Note: The FAA published the following procedure in transmittal letter 02–18 dated August 2, 2002 effective October 3, 2002 which is hereby rescinded:

Oakland, CA, Metropolitan Oakland Intl, VOR/DME RWY 29, Amdt 1

[FR Doc. 02–21819 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30326; Amdt. No. 3020]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective August 28, 2002. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 28, 2002

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

4. The Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

For Purchase—Individual SIAP copies my be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPS and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on August 16, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 972.29 ILS, ILS/DME ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

FDC Date	State	City	Airport	FDC No.	Subject
05/17/02	NM	Albuquerque	Albuquerque Intl Sunport	2/4217	Radar-1, Amdt 20B.
05/17/02	OK	Holdenville	Holdenville Muni	2/4228	NDB Rwy 17, Amdt 4.
06/10/02	TX	Pearsall	McKinley Field	2/5257	VOR/DME or GPS–A, Amdt 2.
07/08/02	IL	Freeport	Albertus	2/6661	NDB Rwy 6, Orig-B.
07/31/02	AZ	Phoenix	Phoenix Sky Harbor Intl	2/7764	ILS Rwy 7R, Amdt 1.
08/06/02	NY	New York	John F. Kennedy Intl	2/8215	ILS Rwy 31R, Amdt 14.
08/08/02	OH	Dayton	James M. Cox Dayton Intl	2/8073	RNAV (GPS) Rwy 6L, Orig.
08/08/02	MI	Detroit	Detroit Metropolitan Wayne County	2/8075	VOR Rwy 22L, Amdt 1E.
08/08/02	MI	Detroit	Detroit Metropolitan Wayne County	2/8076	NDB Rwy 4R, Amdt 10E.
08/08/02	MI	Hancock	Houghton County Memorial	2/8077	NDB or GPS Rwy 31, Amdt 11B.
08/08/02	MI	Detroit	Detroit Metropolitan Wayne County	2/8079	RNAV (GPS) Rwy 4L, Orig.
08/08/02	NM	Albuquerque	Albuquerque Intl Sunport	2/8085	ILS RWY 3, Amdt 1.
08/08/02	MA	Boston	General Edward Lawrence Logan Intl	2/8091	ILS Rwy 4R (Cat I, II, III), Amdt 9.
08/08/02	MA	Boston	General Edward Lawrence Logan Intl	2/8092	NDB Rwy 4R, Amdt 23.
08/08/02	MA	Boston	General Edward Lawrence Logan Intl	2/8093	ILS RWY 22L, Amdt 6.
08/08/02	MA	Boston	General Edward Lawrence Logan Intl	2/8094	RNAV (GPS) Rwy 4R, Orig-B.
08/08/02	MA	Boston	General Edward Lawrence Logan Intl	2/8095	VOR/DME or GPS–A, Orig.
08/08/02	MA	Boston	General Edward Lawrence Logan Intl	2/8096	VOR/DME RNAV Rwy 4R, Amdt 1.
08/08/02	MA	Boston	General Edward Lawrence Logan Intl	2/8097	VOR/DME Rwy 27, Amdt 2A.
08/08/02	MA	Boston	General Edward Lawrence Logan Intl	2/8098	VOR/DME Rwy 33L, Amdt 2A.
08/08/02	OH	Cleveland	Cleveland-Hopkins Intl	2/8121	ILS Rwy 24L, Amdt 17B.
08/08/02	OH	Cleveland	Cleveland-Hopkins Intl	2/8122	NDB or GPS Rwy 24L, Amdt 1B.
08/08/02	OH	Cleveland	Cleveland-Hopkins Intl	2/8123	NDB or GPS Rwy 6R, Amdt 5B.
08/08/02	NC	Raleigh-Durham	Raleigh Durham Intl	2/8138	RNAV (GPS) RWY 232R, Orig.
08/08/02	NC	Raleigh-Durham	Raleigh Durham Intl	2/8139	ILS RWY 23R, Amdt 9.
08/08/02	NC	Raleigh-Durham	Raleigh Durham Intl	2/8140	NDB Rwy 5R, Amdt 20B.
08/08/02	NC	Raleigh-Durham	Raleigh Durham Intl	2/8144	VOR Rwy 5R, Amdt 13B.
08/08/02	NC	Raleigh-Durham	Raleigh Durham Intl	2/8145	ILS Rwy 5L, Amdt 4A.
08/08/02	NC	Raleigh-Durham	Raleigh Durham Intl	2/8146	RNAV(GPS) Rwy 23L, Orig.
08/08/02	NC	Raleigh-Durham	Raleigh Durham Intl	2/8147	ILS Rwy 23L, Amdt 6.
08/08/02	NC	Raleigh-Durham	Raleigh Durham Intl	2/8149	VOR Rwy 32, Amdt 3B.
08/08/02	NC	Raleigh-Durham	Raleigh Durham Intl	2/8150	ILS Rwy 5R, Amdt 26A.
08/08/02	NC	Raleigh-Durham	Raleigh Durham Intl	2/8151	VOR Rwy 23L, Amdt 14C.
08/08/02	TX	Tyler	Tyler Pounds Regional	2/8159	RNAV (GPS) Rwy 13, Orig.
08/08/02	KS	Junction City	Freeman Field	2/8182	RNAV (GPS) Rwy 36, Orig.
08/08/02	TX	Abilene	Abilene Regional	2/8210	ILS Rwy 35R Amdt 6C.
08/09/02	NY	White Plains	Westchester County	2/8216	Copter ILS/DME 162, Orig-B.
08/09/02	NJ	Newark	Newark Intl	2/8217	ILS Rwy 22R, Amdt 3A.
08/13/02	RI	Block Island	Block Island State	2/8342	VOR/DME Rwy 10, Amdt 5.
08/13/02	GA	Atlanta	Dekalb-Peachtree	2/8351	VOR/DME or GPS Rwy 27, Amdt 1A.
08/13/02	GA	Atlanta	Dekalb-Peachtree	2/8355	ILS Rwy 20L, Amdt 7C.
08/13/02	GA	Atlanta	Dekalb-Peachtree	2/8357	VOR/DME or GPS Rwy 20L, Amdt 1B.
08/13/02	TX	Weatherford	Parker County	2/8365	VOR/DME–A, Orig.
08/13/02	TX	Granbury	Grandbury Muni	2/8367	VOR/DME–A, Orig.
08/13/02	TX	Fort Worth	Fort Worth Spinks	2/8368	ILS Rwy 35L, Amdt 1.
08/13/02	TX	Mineral Wells	Mineral Wells	2/8369	VOR Rwy 31, Amdt 10A.
08/13/02	TX	Fort Worth	Bourland Field	2/8370	VOR/DME–A, Orig.
08/13/02	TX	Fort Worth	Bourland Field	2/8372	GPS Rwy 17, Orig.
08/13/02	TX	Fort Worth	Bourland Field	2/8373	GPS Rwy 35, Orig.
08/13/02	TX	Fort Worth	Fort Worth Meacham Intl	2/8374	ILS Rwy 34R, Amdt 1.
08/13/02	TX	Fort Worth	Fort Worth Meacham Intl	2/8379	NDB or GPS Rwy 16L, Amdt 5A.
08/13/02	TX	Fort Worth	Fort Worth Meacham Intl	2/8380	ILS Rwy 16L, Amdt 7.

FDC Date	State	City	Airport	FDC No.	Subject
08/13/02	TX	Fort Worth	Fort Worth Meacham Intl	2/8381	GPS Rwy 34R, Orig-A.

[FR Doc. 02–21828 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–02–104]

Drawbridge Operation Regulations; Hobe Sound Bridge (SR 708), Atlantic Intracoastal Waterway, mile 996.0, Hobe Sound, Martin County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Hobe Sound (SR 708) bridge at Hobe Sound across the Atlantic Intracoastal Waterway, mile 996.0 in Hobe Sound, Florida. This deviation will test a change to the current bridge regulation and allow the bridge to open on the hour, 20 minutes after the hour, and 40 minutes after the hour from 7 a.m. to 6 p.m. daily. This action is intended to improve the movement of vehicular traffic while not unreasonably interfering with the movement of vessel traffic.

DATES: This deviation is effective from 7 a.m. on November 1, 2002 until 6 p.m. on January 27, 2003. Comments must reach the Coast Guard on or before March 31, 2003.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 33131. Comments and material received from the public, as well as comments indicated in this preamble as being available in the docket, are part of docket [CGD07–02–104] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 33131 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Project Manager, Seventh Coast Guard District, Bridge Branch at (305) 415–6744.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to comment on this test schedule by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this notice [CGD07–02–104], 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.

Discussion of the Test Schedule

The existing regulations for the Hobe Sound (SR 708) bridge in 33 CFR 117.5, require the bridge to open on signal.

The Town of Jupiter Island requested on June 18, 2002, that the Coast Guard review the existing regulation of the Hobe Sound drawbridge as they believe the existing regulations are not meeting the needs of vehicle and vessel traffic. This test deviation will allow the bridge to open only on the hour, 20 minutes after the hour, and 40 minutes after the hour. We will utilize the data collected from this test deviation to determine if new operating regulations need to be created for this bridge to facilitate vehicle and vessel traffic movement.

The District Commander has granted a test deviation from the operating requirements listed in 33 CFR 117.5 to evaluate the effect of this new schedule on vehicle and vessel traffic. Under this deviation, the Hobe Sound bridge need only open on the hour, 20 minutes after the hour, and 40 minutes after the hour from 7 a.m. on November 1, 2002 until 6 p.m. on January 27, 2003.

Dated: August 20, 2002.

Greg Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 02–21920 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[USCG–2001–10689]

RIN 2115–AG47

Temporary Requirements for Notification of Arrival in U.S. Ports

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule; change of effective date.

SUMMARY: The Coast Guard is extending the effective period for the temporary rule on notification of arrival requirements to March 31, 2003. Extension of the effective period will ensure sufficient time to complete the permanent rulemaking. Continuing the temporary rule in effect while the permanent rulemaking is in progress will help to ensure the security of our ports and the uninterrupted flow of maritime commerce during that period.

DATES: Effective September 30, 2002, §160.201(e) and (f), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002; § 160.201(g), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, and extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002; the definitions for ''certain dangerous cargo'', ''crewmember'', ''nationality'', and ''persons in addition to crewmembers'' in § 160.203, extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002; § 160.T204, added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002; § 160.T208, added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, and 67 FR 2571, January 18, 2002, and extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002, and further amended by 67 FR 53735, August 19, 2002; § 160.T212, added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, and extended in effect at 67 FR 37682,

May 30, 2002, until September 30, 2002, and further amended by 67 FR 53735, August 19, 2002; and § 160.T214, added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, and extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002, will all continue to be extended in effect until March 31, 2003. Section 160.201(c) and (d); the definition of ''certain dangerous cargo'' in § 160.203; and §§ 160.207, 160.211, and 160.213 which were all suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, and further suspended at 67 FR 37682, May 30, 2002, until September 30, 2002, will all continue to be suspended through March 31, 2003.

ADDRESSES: The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of this docket and are available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LTJG Marcus A. Lines, U.S. Coast Guard (G–MMP), at 202–267–6854. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

On October 4, 2001, we published a temporary final rule entitled ''Temporary Requirements for Notification of Arrival in U.S. Ports'' in the **Federal Register** (66 FR 50565). Subsequently, we published two corrections in the **Federal Register** [November 19, 2001 (66 FR 57877)] and [January 18, 2002 (67 FR 2571)]. On May 30, 2002, we extended the effective period of the temporary rule through September 30, 2002 (67 FR 37682).

Background and Purpose

We published a related notice of proposed rulemaking (NPRM) to make permanent changes to the notice of arrival requirements [''Notification of Arrival in U.S. Ports'' June 19, 2002 (67 FR 41659)]. We expected the extension of the temporary rule through September 30, 2002, to provide us enough time to complete the permanent changes to the notice of arrival requirements. However, on July 23, 2002, we published an NPRM proposing to further extend the effective period of the temporary rule [67 FR 48073].

The comment period ended on August 22, 2002, and we received no comments. We are, therefore, further extending the effective period of the temporary rule until March 31, 2003, to ensure sufficient time to complete the changes. Continuing the temporary rule in effect while the permanent rulemaking is in progress will help to ensure the security of our ports and the uninterrupted flow of maritime commerce during that period.

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. It has not been reviewed by the Office of Management and Budget under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)[February 26, 1979 (44 FR 11040)].

As discussed in the preamble, the Coast Guard has temporarily changed the notice of arrival (NOA) regulations and is extending the effective period of those requirements until March 31, 2003. When assessing the impact of the temporary requirements, we estimated that providing the Coast Guard with the additional information about passengers, crew, and cargo will impose minimal burden on vessels already complying with the notification requirements of 33 CFR part 160, subpart C. As explained below, the total cost to extend the effective period of the temporary rule should not exceed $377,324:

Cost and Burden. Coast Guard data on Notification of Arrival information for 1998 and 1999 was used to estimate the maximum populations that will be affected by this rule. Table 1 categorizes the affected vessel population into four sub-populations. They are:

- ''Non-AMVER/Non-Great Lakes Vessels''—vessels already required to comply with NOA regulations;
- ''AMVER''—vessels complying with the Automated Mutual Assistance Vessel Rescue system and that were exempt from NOA requirements prior to the temporary rule;
- ''Great Lakes Vessels''—vessels greater than 300 gross tons, on Great Lakes routes, that were exempt from NOA requirements prior to the temporary rule; and
- ''Vessels on Scheduled Routes''—vessels operating upon a route that is described in a schedule that is submitted to the Captain of the Port for each port or place of destination listed in the schedule. The table also sets out the number of vessels and their total number of U.S. port calls (arrivals) for each vessel sub-population.

TABLE 1.—NUMBER OF VESSELS AND U.S. PORT CALLS FOR 1998 AND 1999*

	1998	1999	Annual average	Monthly average
Non-AMVER/Non-Great Lakes				
Vessels	9,795	9,538	9,667	NA
U.S. Port Calls	63,090	63,482	63,286	5,274
AMVER				
Vessels	625	609	617	NA
U.S. Port Calls	4,027	4,052	4,040	337
Great Lakes				
Vessels	83	82	83	NA
U.S. Port Calls	840	786	813	68
Totals				
Vessels	10,503	10,229	10,367	NA
U.S. Port Calls	67,957	68,320	68,139	5,679

*These estimates include vessels on scheduled routes that will experience about the same costs as the other vessels in this population.

Vessels less than 300 gross tons making ports of call in the Seventh Coast Guard District have to file NOA reports with the COTP. This rule will maintain the requirement, and the estimate of the vessels and port calls presented in Table 1 accounted for this special group.

Before the temporary final rule, vessels had to file multiple NOA reports if they were visiting multiple U.S. ports on the same voyage. Under the temporary rule, vessels making calls to multiple U.S. ports do not have to file multiple NOA reports; rather, the temporary rule allows a single report listing all destinations in the United States along with estimated arrival dates for each port. The Coast Guard did not collect or maintain information on the number of vessels that made multiple U.S. port calls under separate NOA reports to estimate the number of consolidated reports under the temporary rule. The totals above, therefore, represent a conservative estimate, a ''worst-case scenario,'' of the numbers of vessels and NOA reports that will be affected by this rule.

Finally, vessels that make scheduled trips outside of their COTP zones will no longer be exempt from reporting requirements. We do not know how many of these vessels and port calls exist, though we know they are included in the population of non-AMVER/non-Great Lakes vessels. For the purposes of analysis, these vessels and port calls are included in the non-AMVER/non-Great Lakes population.

Cost of the Temporary Rule

Minimal burden will be imposed on vessels whose applicability to the NOA reporting requirements was upheld by the temporary rule. The cargo, crew, and passenger information these vessels provide to the Coast Guard is already collected on a form submitted to the Immigration and Naturalization Services (INS) (INS form I–418). We assumed 10 minutes (0.167 hours) will be spent retrieving and transmitting the cargo, crew, and passenger information. We assumed that there will be a $2 transmittal fee (fax, email, telephone, etc.) to provide this information to the Coast Guard. We assumed that clerical labor will complete these tasks at a cost of $31.00 per hour (loaded labor rate, 2001). Based on 1998 and 1999 data, we estimated 31,644 port calls will be made over this extension period (6 months—until March 31, 2003). The summary of unit costs and total rulemaking costs for non-AMVER/non-Great Lakes vessels is presented in Table 2.

TABLE 2.—TOTAL RULEMAKING COSTS FOR NON-AMVER/NON-GREAT LAKES VESSELS

(October 2002–March 2003)

Port calls during temporary rule	Labor hours per port call	Labor hours during temporary rule	Cost per labor hour	Cost per information transmittal	Total rulemaking cost for these vessels
31,644	0.167	5,274	$31.00	$2.00	$226,782

Detail may not calculate to total due to independent rounding.
* These estimates include vessels on scheduled routes that will experience about the same costs as the other vessels in this population.

Vessels that were exempt from NOA requirements before the original effective period of the temporary rule will, as a result of this rule, continue to provide the Coast Guard with NOA reports in addition to providing the cargo, crew, and passenger information until March 31, 2003. These vessels (AMVER and vessels that transit only the Great Lakes) will incur cost by extending the effective period of the temporary rule that requires them to submit an NOA report. Based on the OMB-approved Collection of Information for NOA (OMB–2115–0557), we estimated that it will take 10 minutes (0.167 hours) to complete the report, plus an additional 5 minutes (0.083 hours) for the general description of the cargo. We assumed that clerical labor will complete the report at a cost of $31.00 per hour. Additionally, these vessels will need to develop and submit the cargo, crew, and passenger information. Based on information from the INS (OMB–1115–0083), it will require 60 minutes (1.000 hour) to complete both lists, for a total of 75 minutes (1.250 hours) for the entire submission (NOA report, cargo description, crew and passenger information). There will be a $2 transmittal fee to provide the information to the Coast Guard. Based on 1998 and 1999 data, we estimated that 2,427 port calls will be made over the time period of this rulemaking. The summary of unit costs and total rulemaking costs for AMVER/Great Lakes vessels is presented in Table 3.

TABLE 3.—TOTAL RULEMAKING COSTS FOR AMVER/GREAT LAKES VESSELS

(October 2002–March 2003)

Port calls during temporary rule	Labor hours per port call	Labor hours during temporary rule	Cost per labor hour	Cost per information transmittal	Total rulemaking cost for these vessels
2,427	1.250	3,033	$31.00	$2.00	$98,870

Detail may not calculate to total due to independent rounding.

Finally, all vessels affected will continue to communicate with the National Vessel Movement Center (NVMC) upon departure from a U.S. port when their next port of call is also a U.S. port. Vessels are to phone or fax the date of departure to the NVMC along with the name of the port just departed. The NVMC will transmit this information to the COTP in the next port of call. We assumed that reporting this will require 1 minute (0.017 hours)

per departure and that clerical labor ($31.00 per hour) will make the call or send the fax. We assumed the transmittal fee will be $1.00 per call/fax. There will be an estimated 34,071 departures over the 6-month extension period of the temporary rule (until March 31, 2003). The cost and burden for notifying NVMC of the date of departure and last port of call is presented in Table 4.

TABLE 4.—TOTAL RULEMAKING COSTS FOR PROVIDING NVMC WITH DATE OF DEPARTURE AND LAST PORT OF CALL INFORMATION

(October 2002—March 2003)

Port departures during temporary rule	Labor hours per port call	Labor hours during temporary rule	Cost per labor hour	Cost per information transmittal	Total rulemaking cost for these vessels
34,071	0.017	568	$31.00	$1.00	$51,672

Detail may not calculate to total due to independent rounding.

The total cost and burden of the rule is presented in Table 5.

TABLE 5.—TOTAL RULEMAKING COST FOR ALL AFFECTED VESSELS

(October 2002—March 2003)

	Arrivals/departures	Cost per arrival/departure	Burden per arrival/departure (hours)	Total rulemaking cost	Total rulemaking burden
Arr. Non-AMVER/Non-Great Lakes	31,644	$7.17	0.167	$226,782	5,274
Arr. AMVER/Great Lakes	2,427	40.75	1.250	98,870	3,033
Dep. all vessels	34,071	1.52	0.017	51,672	568
Totals	68,142			$377,324	8,875

Detail may not calculate to total due to independent rounding.
* These estimates include vessels on scheduled routes that will experience about the same costs as the other vessels in this population.

Need for the Temporary Rule

This rule will ensure the timely receipt of advance information about vessels, cargo, and people entering U.S. ports and will help minimize disruption to commerce. The additional information required by this rule will increase security and provide protection for the nation's ports and waterways. There will be some savings from the consolidated NOA submission for two or more consecutive arrivals at U.S. ports.

Small Entities

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

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–12), we have offered to assist small entities in understanding the rule so that they may better evaluate its effects on them and participate in the rulemaking process. 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 will extend the effective period of an existing collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collection, a description of those who will be required to collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Advance Notice of Vessel Arrival and Departure.

OMB Control Number: 2115–0557.

Summary of the Collection of Information: The Coast Guard requires pre-arrival messages from any vessel entering a port or place in the United States. This rule will extend the effective period of the temporary notice of arrival requirements to March 31, 2003.

Need for Information: To ensure port safety and security and to ensure the uninterrupted flow of commerce, the Coast Guard is extending the effective period of the temporary notice of arrival requirements.

Proposed Use of Information: Extending the NOA information reported will enable the control of

vessel traffic, the development of contingency plans, and the enforcement of regulations.

Description of the Respondents: The respondents are owners, agents, masters, operators, or persons in charge of vessels bound for or departing from U.S. ports.

Number of Respondents: The existing OMB-approved collection number of respondents is 10,367. Extending the temporary rule will not increase the total number of respondents.

Frequency of Response: The existing OMB-approved collection annual number of responses is 136,278. Extending the temporary rule will not increase the total number of responses.

Burden of Response: The existing OMB-approved collection burden of response is 15 minutes (0.250 hours). Extending the temporary rule will not increase the burden.

Estimate of Total Annual Burden: The existing OMB-approved collection total annual burden is 39,037 hours. Extending the temporary rule will not increase the total annual burden.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. Due to the circumstances surrounding this temporary rule, we asked for ''emergency processing'' of our request. We received OMB approval for the collection of information on September 26, 2001. It is valid until September 30, 2002, and we are requesting it be extended until March 31, 2003.

We asked for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we could improve the quality, usefulness, and clarity of the information; and how we could minimize the burden of collection. No comments were received.

You need not respond to a collection of information unless it displays a currently valid control number from OMB.

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

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.

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(a), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This rule will extend the effective period of the changes to the requirements established in the notification of arrival regulations. They are procedural in nature and therefore are categorically excluded. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 160

Administrative practice and procedure; Harbors; Hazardous materials transportation; Marine safety; Navigation (water); Reporting and recordkeeping requirements; Vessels; Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 160 as follows:

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

Subpart C—Notifications of Arrival, Departures, Hazardous Conditions, and Certain Dangerous Cargoes

1. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1226, 1231; 49 CFR 1.46.

§ 160.201 [Amended]

2. In § 160.201, paragraphs (c) and (d), which were suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, and further suspended at 67 FR 37682, May 30, 2002, until September 30, 2002, will continue to be suspended through March 31, 2003; and paragraphs (e) and (f), added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002, and paragraph (g), added at 66 FR 50565, October 4, 2001,

effective October 4, 2001, until June 15, 2002, amended by 66 FR 57877, November 19, 2001, extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002, are extended in effect through March 31, 2003.

§ 160.203 [Amended]

3. In § 160.203, the definition of ''certain dangerous cargo,'' which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, and further suspended at 67 FR 37682, May 30, 2002, until September 30, 2002, will continue to be suspended through March 31, 2003; and the definitions for ''certain dangerous cargo'', ''crewmember'', ''nationality'', and ''persons in addition to crewmembers'' which were added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002, are extended in effect through March 31, 2003.

§ 160.T204 [Amended]

4. Section 160.T204, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002, is extended in effect through March 31, 2003.

§ 160.207 [Amended]

5. Section 160.207, which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, and further suspended at 67 FR 37682, May 30, 2002, until September 30, 2002, will continue to be suspended through March 31, 2003.

§ 160.T208 [Amended]

6. Section 160.T208, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, and amended by 66 FR 57877, November 19, 2001, and by 67 FR 2571, January 18, 2002, and extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002, and further amended by 67 FR 53735, August 19, 2002, is extended in effect though March 31, 2003.

§ 160.211 [Amended]

7. Section 160.211, which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, and further suspended at 67 FR 37682, May 30, 2002, until September 30, 2002, will continue to be suspended through March 31, 2003.

§ 160.T212 [Amended]

8. Section 160.T212, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, amended by 66 FR 57877, November 19, 2001, and extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002, and further amended by 67 FR 53735, August 19, 2002, is extended in effect though March 31, 2003.

§ 160.213 [Amended]

9. Section 160.213, which was suspended at 66 FR 50565, October 4, 2001, from October 4, 2001, until June 15, 2002, and further suspended at 67 FR 37682, May 30, 2002, until September 30, 2002, will continue to be suspended through March 31, 2003.

§ 160.T214 [Amended]

10. Section 160.T214, which was added at 66 FR 50565, October 4, 2001, effective October 4, 2001, until June 15, 2002, amended by 66 FR 57877, November 19, 2001, and extended in effect at 67 FR 37682, May 30, 2002, until September 30, 2002, is extended in effect though March 31, 2003.

Dated: August 23, 2002.

Joseph J. Angelo,

Acting Assistant Commandant Marine Safety, Security and Environmental Protection.

[FR Doc. 02–21981 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–515]

Safety Zone; Captain of the Port Milwaukee Zone

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Milwaukee Zone during September 2002. This action is necessary to provide for the safety of life and property on navigable waters during these events. These zones will restrict vessel traffic from a portion of the Captain of the Port Milwaukee Zone.

DATES: The safety zone for the Indian Summer Fest—Milwaukee, WI (165.909(a)(9)) will be enforced on September 6, 2002, from 9:50 p.m. until 10:25 p.m., but in the event of inclement weather the safety zone will be enforced from 9:20 p.m. until 9:55 p.m. on September 8, 2002. The safety zone for the Milwaukee River Challenge Boat Races (165.909(a)(28)) will be enforced on September 21, 2002, from 12 p.m. until 6 p.m.

FOR FURTHER INFORMATION CONTACT: Marine Science Technician Chief Dave McClintock, U.S. Coast Guard Marine Safety Office Milwaukee, at (414) 747–7155

SUPPLEMENTARY INFORMATION: The Coast Guard is implementing the permanent safety zone in 33 CFR 165.909(a)(9) (67 FR 44560, July 3, 2002), as well as the permanent safety zone in 33 CFR 165.909(a)(28) (67 FR 44560, July 3, 2002) for fireworks displays in the Captain of the Port Milwaukee Zone during September 2002. The following safety zones are in effect for fireworks displays occurring in the month of September 2002:

Indian Summer Fest Fireworks—Milwaukee, WI. This safety zone will be enforced on September 6, 2002, from 9:50 p.m. until 10:25 p.m. In the event of inclement weather on September 6, 2002, the safety zone will be enforced from on September 8, 2002 from 9:20 p.m. until 9:55 p.m.

Milwaukee River Challenge Boat Races—Milwaukee, WI. This safety zone will be enforced on September 21, 2002, from 12 p.m. until 6 p.m.

In order to ensure the safety of spectators and transiting vessels, this safety zone will be in effect for the duration of the event. Vessels may not enter the safety zone without permission from Captain of the Port Milwaukee Zone. Requests to transit the safety zone must be made in advance by contacting the person listed in **FOR FURTHER INFORMATION CONTACT** and must be approved by the Captain of the Port Milwaukee before transits will be authorized. Spectator vessels may anchor outside the safety zone but are cautioned not to block a navigable channel.

Dated: August 20, 2002.

M.R. DeVries,

Commander, U.S. Coast Guard, Captain of the Port Milwaukee.

[FR Doc. 02–21982 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–085a; A–1–FRL–7268–7]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Rate-of-Progress Emission Reduction Plans for the Boston-Lawrence-Worcester Serious Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes 15 percent and post-1996 rate-of-progress plans for the Massachusetts portion of the Boston-Lawrence-Worcester serious ozone nonattainment area. The intended effect of this action is to approve this SIP revision in accordance with the requirements of the Clean Air Act.

DATES: This direct final rule will be effective October 28, 2002, unless EPA receives adverse comments by September 27, 2002. If EPA receives adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning , Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA, and at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Robert McConnell, (617) 918–1046.

SUPPLEMENTARY INFORMATION: On April 10, 2002, the Commonwealth of Massachusetts submitted a formal revision to its SIP. The SIP revision consists of 15 percent and post-1996 rate-of-progress (ROP) emission reduction plans for the Massachusetts portion of the Boston-Lawrence-Worcester serious ozone nonattainment area. Massachusetts submitted a minor amendment to the ROP plans on July 26, 2002. We previously approved ROP plans that the State of New Hampshire submitted for the portions of this nonattainment area within its borders.

This Supplementary Information section is organized as follows:

1. What action is EPA taking today?
2. Why was Massachusetts required to reduce its emissions of ozone forming pollutants?
3. What are the sources of these pollutants?
4. What harmful effects can these pollutants produce?
5. Should I be concerned if I live near an industry that emits a significant amount of these pollutants?
6. Why didn't EPA approve Massachusetts' prior versions of these plans?
7. Massachusetts was supposed to achieve a portion of these emission reductions by 1996, and the remainder by 1999. Did that happen?
8. How much do the Commonwealth's plans reduce air pollution emissions?
9. How will Massachusetts achieve these emission reductions?
10. Why is EPA approving a plan that only covers the eastern part of the Commonwealth?
11. Have these emission reductions improved air quality in Massachusetts?
12. Has Massachusetts met its contingency measure obligation?
13. Are conformity budgets contained in these plans?

1. What action is EPA taking today?

EPA is approving ROP emission reduction plans submitted by Massachusetts for its portion of the Boston-Lawrence-Worcester serious ozone nonattainment area as revisions to Massachusetts' SIP. This area is referred to as the Eastern Massachusetts area in the remainder of this notice. The ROP plans document how Massachusetts complied with the provisions of Sections 182 (b)(1) and (c)(2)(B) of the Federal Clean Air Act (the Act). 42 U.S.C. 7511a (b)(1) and (c)(2)(B). These sections of the Act require states containing certain ozone nonattainment areas to develop strategies to reduce emissions of the pollutants that react to form ground level ozone.

2. Why was Massachusetts required to reduce its emissions of ozone forming pollutants?

Massachusetts was required to develop plans to reduce ozone precursor emissions because it contains a serious ozone nonattainment area. A final rule published by EPA on November 6, 1991 (56 FR 56694) designated ten counties in the eastern part of Massachusetts a serious ozone nonattainment area. Sections 182 (b)(1) and (c)(2)(B) of the Act require that serious ozone nonattainment areas develop ROP plans to reduce ozone forming pollutant emissions in the nonattainment area.

As stated above, two provisions of the Act make achieving these emission reductions necessary. Under section 182(b)(1), Massachusetts needed to develop a plan to reduce volatile organic compound (VOC) emissions by 15 percent by 1996. These plans are referred to as ''15 percent ROP'' plans. Requirements in section 182(c)(2)(B) and (C) of the Act instruct Massachusetts to achieve additional emission reductions. These additional reductions must lower ozone precursor emissions (VOC or nitrogen oxides) by 9 percent by 1999. These plans are referred to as ''post 1996 ROP'' plans.

3. What are the sources of these pollutants?

VOCs are emitted from a variety of sources, including motor vehicles, a variety of consumer and commercial products such as paints and solvents, chemical plants, gasoline stations, and other industrial sources. Nitrogen oxides (NO_X) is emitted from motor vehicles, power plants, and other sources that burn fossil fuels.

4. What harmful effects can these pollutants produce?

VOCs and NO_X react in the atmosphere to form ozone, the prime ingredient of smog in our cities and many rural areas of the country. Though it occurs naturally at elevated levels high in our atmosphere, at ground level it is the prime ingredient of smog. When inhaled, even at very low levels, ozone can:

Cause acute respiratory problems;
Aggravate asthma;
Cause significant temporary decreases in lung capacity in some healthy adults;
Cause inflammation of lung tissue;
Lead to hospital admissions and emergency room visits; and
Impair the body's immune system defenses.

5. Should I be concerned if I live near an industry that emits a significant amount of these pollutants?

Industrial facilities that emit large amounts of these pollutants are monitored by the Commonwealth's environmental agency, the Department of Environmental Protection (DEP). Many facilities are required to emit air pollutants through tall stacks to ensure that high concentrations of pollutants do not exist at ground level. Permits issued to these facilities include information on which pollutants are being released, how much may be

released, and what steps the source's owner or operator is taking to reduce pollution. The Massachusetts DEP makes permit applications and permits readily available to the public for review. You can contact the Massachusetts DEP for more information about air pollution emitted by industrial facilities in your neighborhood.

6. Why didn't EPA approve Massachusetts' prior versions of these plans?

EPA proposed to approve a prior version of the Massachusetts 15 percent plan submitted to EPA in 1997, subject to certain conditions (see 62 FR 37527, July 14, 1997). EPA did not grant final approval because Massachusetts did not meet the conditions EPA listed in that proposal. Specifically, Massachusetts did not meet its commitment to begin an automobile emission ''inspection and maintenance'' (I/M) program. EPA did not propose action on Massachusetts' post 1996 ROP plan in the July 14, 1997 notice.

On April 10, 2002, Massachusetts submitted revisions to its 15 percent and post 1996 ROP plans (the ''revised ROP plans'') and submitted minor amendments on July 26, 2002.

7. Massachusetts was supposed to achieve a portion of these emission reductions by 1996, and the remainder by 1999. Did that happen?

Massachusetts did not reduce its hydrocarbon emissions by 15 percent by November 15, 1996, or reduce ozone precursor emissions an additional 9 percent by November 15, 1999. However, the DEP has shown that all of the emission reductions required of 15 percent and post-1996 plans occurred by mid-summer of 2001. EPA believes it can approve both of these plans for the reasons provided below.

Subsequent to EPA's July 14, 1997 proposed action, ROP plans for the Eastern Massachusetts serious area became unnecessary because EPA determined, in accordance with a May 10, 1995 policy,[1] that the area met the one-hour National Ambient Air Quality Standard (NAAQS) for ozone, and that such planning requirements were unnecessary in light of the clean air in the area. EPA based that determination on three years of complete, quality assured ambient air monitoring data for the years 1996–98 which demonstrated that the one-hour ozone NAAQS had been attained in this area. On the basis of that determination, EPA also determined that certain ROP and attainment demonstration requirements, along with certain other related requirements, of Part D of Title 1 of the Act were no longer applicable to the Eastern Massachusetts area for so long as the area continued to attain the one hour ozone NAAQS. However, ozone monitoring data for the years 1999 to 2001 indicate that the Eastern Massachusetts area violated the one hour ozone standard over that three year time period. Therefore, EPA no longer has a basis for deferring the planning requirements that attainment of the one-hour ozone NAAQS had rendered unnecessary.

In its April 10, 2002 submittal, Massachusetts is not able to demonstrate a 15 percent VOC emission reduction occurred in the Eastern Massachusetts area by the November 15, 1996 milestone date, or that an additional 9 percent reduction in ozone precursor emissions occurred by the November 15, 1999 milestone due to delayed implementation of its I/M program. However, the Commonwealth was not required to make this showing during the years it monitored attainment of the one-hour ozone standard. It is not possible to require Massachusetts to make this demonstration, as those dates have passed. Therefore, taking into account the individual circumstances surrounding this SIP submission and guidance within the May 10, 1995 policy memorandum, we notified Massachusetts that we would approve Massachusetts' ROP plans if the DEP could show that ozone precursor emissions were lowered by 24 percent compared to 1990 levels by 2001, instead of by the original 1999 milestone date. At least 15 percent of the 24 percent reduction must come from the VOC inventory.

Once a statutory deadline has passed and has not been replaced by a later one, the deadline then becomes ''as soon as possible.'' *Delaney* v. *EPA*, 898 F.2d 687, 691 (9th Cir. 1990), cert. den. 498 U.S. 998 (1990). EPA has interpreted this requirement to be ''as soon as practicable.'' The state's revised ROP plans for Eastern Massachusetts, submitted on April 10, 2002, and amended on July 26, 2002, demonstrate that a 24% reduction in ozone precursor emissions occurred by 2001. This means that the overall environmental benefit represented by the 15 percent and post-1996 ROP requirements occurred, and in fact occurred while the Eastern Massachusetts area still monitored attainment of the one-hour standard. EPA believes that this demonstration meets the as soon as practicable test. Therefore, we are now approving the 15 percent and post-1996 plans.

8. How much do the Commonwealth's plans reduce air pollution emissions?

By 2001, the Commonwealth's plans indicate that VOC emissions in the Eastern Massachusetts area will decrease by 32 percent, and NO_X emissions will decrease by 13 percent compared to 1990 emission levels as a result of federal and state control programs.

DEP's April 10, 2002 submittal illustrates how Massachusetts met the post-1996 ROP requirements of section 182(c)(2)(B) of the Act, and the 15 percent ROP requirements of section 182(b) of the Act. Both sets of reductions were calculated from a 1990 baseline, and the plans describe how any growth in emissions was offset. Under section 182(c)(2)(C) of the Act, NO_X reductions can also be used to meet the post-1996 ROP emission reduction obligation; the Act only allows for VOC reductions in 15 percent ROP plans.

The manner in which states are to determine the required level of emission reductions is described in EPA guidance documents entitled, ''Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent ROP Plans,'' (EPA–452/R–92–005), and ''Guidance on the Post-1996 Rate-of-Progress Plan and the Attainment Demonstration'' (EPA 452–93–015). The calculation procedures to determine both the 15 percent and post-1996 ROP emission reduction obligations are similar. Table 1 below contains a summary of DEP's calculations for the Eastern Massachusetts area.

As shown below in Table 1, DEP's April 10, 2002 submittal demonstrates more than a 24 percent reduction in ozone precursor emissions occurred by mid-summer, 2001. In other words, Massachusetts shows that their projected, controlled 2001 emission levels for VOC and NO_X are lower than the 1999 target emission levels calculated for these pollutants. The 1999 target levels represent the amount of emissions that can be emitted after accounting for the required 24 percent reduction in ozone precursor emissions, and other required emission reductions that the Act does not allow be credited towards the ROP emission reduction obligation, such as reductions from the pre-1990 Federal Motor Vehicle Control

[1] Policy guidance contained in a May 10, 1995 memorandum from John Seitz, Director of EPA's Office of Air Quality Planning and Standards, recommends that ROP and attainment demonstration requirements, along with certain other related requirements, of Part D of Title 1 of the Clean Air Act are no longer applicable to an area once it has air quality data indicating that the one hour ozone standard has been attained. This finding will remain effective for so long as the area continues to attain the one hour ozone NAAQS.

Program (FMVCP), revisions to deficient reasonably available control technology (RACT) regulations, and corrections to deficient automobile I/M programs.

One step in the above demonstration consists of a projection of emissions from the base year to a future year. A prior version of these plans submitted to EPA on March 31, 1997 contains emission projections that were obtained by applying growth factors to the baseline 1990 emissions to obtain estimated 1999 emission levels. The Commonwealth's current submittal contains an improved projection of emissions that uses actual 1999 emissions data. The 1999 emissions data, in addition to being much more current than the 1990 estimates, also contain improvements to area and non-road mobile source estimation methodologies, the most significant of which is use of the EPA's draft non-road model. Although this model is not a final model, Massachusetts DEP believes, and we agree, that it provides a more accurate evaluation of air pollution emissions from non-road engines than the alternative emission estimation procedure available to DEP, which consists of estimates prepared in 1991 by an EPA contractor. The Commonwealth projected its 1999 emissions to 2001 through application of growth factors.

We commented during the public hearing process that the DEP needed to ensure that it calculated its 1999 emission estimates with the same emission factors that were used to determine 1990 baseline emissions. Since the 15 percent and 9 percent ROP emission reduction obligations are calculated off of the 1990 baseline, use of consistent emission factors in the baseline and projected emission inventories ensures that emission reductions due to changed emission estimation procedures are not reflected in the plan.

Massachusetts' April 10, 2002 submittal and July 26, 2002 amendment contain several revisions to the 1990 baseline area and non-road emission estimates made to ensure that consistent emission factors were used to develop the 1990 and 1999 inventories. DEP then revised its target level calculations using the new 1990 baseline as shown below in Table 1. We approve the revisions made by the Commonwealth to its 1990 baseline emissions.

TABLE 1

Description	VOC Emissions (tpsd)	NO_X Emissions (tpsd)
Step 1—Calculate 1990 Base Year Inventory	1223.5	891.3
Step 2—Develop Rate-of Progress Inventory by subtracting biogenics and non-reactives	816.1	891.3
Step 3—Develop Adjusted Base Year Inventory by subtracting non-creditable FMVCP rdxns:		
1996 target calculation	816.1 − 26.2 = 789.9	
1999 target calculation	816.1 − 41.4 = 774.7	891.3 − 46.3 = 844.9
Step 4—Calculate Required Reduction (15% VOC for 1996 target; State will use 7% VOC and 2% NO_X for 1996 to 1999 ROP):		
1996 target calculation	15% * 789.9 = 118.5	
1999 target calculation	7% * 774.7 = 54.2	2% * 844.9 = 16.9
Step 5—Calculate Total Expected Reductions (sum of FMVCP reductions, required percent reductions, and for VOC in the 1996 target, 6.3 tpsd in RACT corrections and 7.2 tpsd in I/M corrections. The VOC FMVCP between 1996 and 1999 is 15.2 tpsd):		
1996 target calculation	118.5 + 26.2 + 6.3 + 7.2 = 158.1	
1999 target calculation	54.2 + 15.2 = 69.5	16.9 + 46.3 = 63.2
Step 6—Set Target Levels (Target = 1990 ROP inventory − total reductions)		
1996 target calculation	816.1 − 158.1 = 658.0	
1999 target calculation	658.0 − 69.5 = 588.5	891.3 − 63.2 = 828.0
Step 7—Projected, Controlled 2001 Emissions	551.9	774.7

The Massachusetts ROP plans demonstrate that the VOC and NO_X emission reductions from the control strategy will achieve sufficient emission reductions to lower 2001 emission levels below the target levels calculated for each pollutant.

9. How will Massachusetts achieve these emission reductions?

The Commonwealth's post-1996 control strategy matches the control strategy described in the EPA's July 14, 1997 proposed approval of the Massachusetts 15 percent plan, and also includes emission reductions from the Commonwealth's NO_X RACT and Ozone Transport Commission (OTC) NO_X Memorandum of Understanding (MOU) rule, and emission reductions from federal measures limiting emissions from non-road engines promulgated between 1996 and 1999. Reductions from the NO_X rules and from the federal non-road standards are described further below.

NO_X RACT

Massachusetts has adopted a NO_X RACT regulation, the citation for which is 310 Code of Massachusetts Regulations 7.19. The regulation applies to facilities with potential emissions of 50 tons per year or greater. Facilities covered by the rule needed to comply by May 31, 1995. Massachusetts submitted the rule to EPA on July 15, 1994, as a revision to the State's SIP. EPA approved the State's NO_X RACT rule on September 2, 1999 (64 FR 48095).

OTC NO_X MOU Rule

The DEP submitted a rule entitled ''310 CMR 7.27: NO_X Allowance Program'' to EPA to meet the requirements of the ozone transport commission's NO_X MOU. We approved the rule into the state's SIP on June 2, 1999 (64 FR 29567). By 2001, the Commonwealth's NO_X RACT and NO_X MOU rules will reduce point source emissions by 130 tpsd in the Eastern Massachusetts area.

Federal Non-Road Standards

In the July 3, 1995 **Federal Register** (60 FR 34581), EPA promulgated the first phase of the regulations to control emissions from new non-road spark-ignition engines. The regulation is found at 40 CFR part 90, and is titled,

''Control of Emissions From Non-road Spark-Ignition Engines.''

The first phase of the new non-road standards will cause a substantial reduction of VOC emissions by 2001. Massachusetts used the EPA's Non-road model to estimate the reductions that will accrue by 2001. Although this is a draft model, it provides a better estimate of emissions than the previous emission estimation methodology available for this sector. The previous methodology was based on the document, ''Non-road Engine and Vehicle Emission Study Report'' (Publication nos. EPA–21A–2001; EPA460/3–91–002). The sale of reformulated gasoline in Massachusetts also reduces non-road emissions. The combined effect of reformulated gasoline and the new non-road standards will lower non-road VOC emissions by 18 tpsd in the Eastern Massachusetts area.

10. Why is EPA approving a plan that only covers the eastern part of the Commonwealth?

EPA is only approving ROP plans for the Eastern Massachusetts serious area because we previously approved the ROP plans for the Western Massachusetts serious area in a final rule published in the **Federal Register** on November 15, 2000 (65 FR 68896).

11. Have these emission reductions improved air quality in Massachusetts?

Ozone levels have decreased in the Eastern Massachusetts area during the 1990's, due in part to emission reductions achieved by these plans. Pollution control measures implemented by states upwind of Massachusetts have also helped ozone levels decline in this area of the Commonwealth.

12. Has Massachusetts met its contingency measure obligation?

Ozone nonattainment areas classified as serious or above must submit to the EPA, pursuant to section 182(c)(9) of the Act, contingency measures to be implemented if an area misses an ozone SIP milestone. The Massachusetts ROP plan demonstrates that surplus emission reductions beyond those required to meet ROP requirements exist which cover the 3 percent contingency requirement of the Act.

13. Are conformity budgets contained in these plans?

Section 176(c) of the Act, and 40 CFR 51.452(b) of the federal transportation conformity rule require states to establish motor vehicle emissions budgets in any control strategy SIP that is submitted for attainment and maintenance of the NAAQS. Massachusetts will use these budgets to determine whether proposed projects that attract traffic will ''conform'' to the emissions assumptions in the SIP.

Massachusetts' revised ROP plans contain motor vehicle emission budgets for the year 2001. However, the Massachusetts DEP submitted an ozone attainment demonstration plan to EPA in 1998 that contains mobile source emission budgets for Eastern Massachusetts for 2003. Since the year 2003 budgets are more restrictive, cover a time frame later than the ROP plans (which include the current transportation analyses milestone years), and are based on the attainment plan, these 2003 VOC and NO_X budgets take precedence over motor vehicle emission budgets for earlier years. The specific 2003 budgets for the Eastern Massachusetts area are 117.1 tpsd for VOC, and 243.3 tpsd for NO_X.

II. Final Action

EPA is approving 15 percent and post-1996 rate-of-progress plans for the Massachusetts portion of the Boston-Lawrence-Worcester serious ozone nonattainment area.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment 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 relevant adverse comments be filed. This rule will be effective October 28, 2002 without further notice unless the Agency receives relevant adverse comments by September 27, 2002.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. EPA will then address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If we receive no such comments, the public is advised that this rule will be effective on October 28, 2002 and we will take no further action on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. 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 (Public Law 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), 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 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 October 28, 2002. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: August 13, 2002.

Robert W. Varney,

Regional Administrator, EPA New England.

Part 52 of 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 W—Massachusetts

2. Section 52.1129 is amended by adding paragraph (c) to read as follows:

§ 52.1129 Control Strategy: Ozone.

* * * * *

(c) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on April 10, 2002 and amended on July 26, 2002. The revisions are for the purpose of satisfying the rate of progress requirements of sections 182(b)(1) and 182(c)(2)(B) of the Clean Air Act for the Massachusetts portion of the Boston-Lawrence-Worcester serious ozone nonattainment area.

[FR Doc. 02–21940 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[SIP Nos. MT–001–0042a, MT–001–0044a, MT–001–0045a; FRL–7261–1]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plans for the State of Montana; Revisions to the Administrative Rules of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and notice of delegation of authority.

SUMMARY: EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the Governor of Montana on April 30, 2001, May 21, 2001 and December 20, 2001. The April 30, 2001 and December 20, 2001 submittals revise the State's Administrative Rules of Montana (ARM) by updating Incorporation by Reference rules. The May 21, 2001 submittal repeals the State's Sulfur Oxide—Primary Copper rule. EPA is also announcing that on February 1, 2002, we updated the delegation of authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State. Finally, the Governor's April 30, 2001 submittal contains other SIP revisions which have been or will be addressed separately. The intended effect of this action is to make these revisions federally enforceable. The EPA is taking this action under section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on October 28, 2002, without further notice, unless EPA receives adverse comment by September 27, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA, Region 8, (303) 312–6144.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'' or ''our'' is used means EPA.

I. Analysis of the State's Submittal

A. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan admitted by a State must be adopted after reasonable notice and public hearing. Section 110(1) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria are set out at 40 CFR part 51, appendix V. EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a

submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of submission.

To entertain public comment, the State of Montana, after providing adequate public notice, held public hearings on July 5, 2000, January 23, 2001 and May 10, 2001 to address revisions to the SIP. Following the public hearings and public comment period, the Montana Board of Environmental Review adopted the revisions. Revisions to ARM 17.8.102 and 17.8.103 were adopted on September 15, 2000 and July 20, 2001, revisions to 17.8.323 were adopted on March 16, 2001 and revisions to 17.8.302, 17.8.602, 17.8.702, 17.8.902, and 17.8.1002 were adopted on July 20, 2001.

The Governor of Montana submitted the revisions to the SIP with letters dated April 30, 2001, May 21, 2001 and December 20, 2001. The SIP revisions were reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. The submittals were found to be complete.

B. April 30, 2001 Revisions

1. ARM 17.8.102—Incorporation by Reference—Publication Dates

This section was revised to update the dates of documents which are incorporated by reference. The 1999 editions of the Code of Federal Regulations, the Montana Code Annotated and the Administrative Rules of Montana are referenced in the regulation. These changes are necessary to allow the State to include the most recent editions of State statutes and rules and federal regulations. Specifically, incorporation by reference changes were made to ARM 17.8.102(1)(a), (c) and (d). Subsequent revisions were made to ARM 17.8.102(1)(a) and (d) in the December 20, 2001 submission, and these changes are discussed below.

In addition, the State of Montana deleted language from the title of this section that refers to the availability of referenced documents. When the State proposed this rule in 1996, the State included information concerning the availability of referenced documents for the entire chapter of air quality rules. In response to comments, the State decided to delete this language from the final rule and place it in separate rules in each rule subchapter. However, the State did not amend the title of the rule to reflect this revision from the proposed rule. Specifically, the title of the rule has changed from ''Incorporation by Reference—Publication Dates and Availability of Referenced Documents' to ''Incorporation by Reference—Publication Dates.'' EPA believes these revisions are minor and we are approving them into the SIP.

2. ARM 17.8.103—Incorporation by Reference

The State revised ARM 17.8.103(1)(n) and (o) to correct references to statute subsections that were renumbered by the 1997 State legislature. Subsequent changes were made to ARM 17.8.103(1)(n) in the December 20, 2001 submission, and these changes are discussed below. EPA believes these revisions are minor and we are approving them into the SIP.

3. Other Revisions Submitted on April 30, 2001

On April 30, 2001, the State submitted revisions to the Missoula City-County Air Pollution Control Program. EPA approved the Missoula City-County revisions on November 15, 2001 (66 FR 57391).

Also on April 30, 2001, the State submitted a new credible evidence rule (ARM 17.8.132). EPA will act on the credible evidence rule in a separate notice.

C. May 21, 2001 Revisions

ARM 17.8.323—Sulfur Oxide Emissions-Primary Copper Smelter Rule

This revision repeals ARM 17.8.323, Sulfur Oxide Emissions—Primary Copper Smelter Rule. This rule was adopted by the State in 1972 and has remained in effect since that time, with minor amendments made in 1981. At the current time, there are no primary copper smelters operating within the State, and ARM 17.8.323 has been superceded by the federal New Source Performance Standards (NSPS) for primary copper smelters (40 CFR part 60, subpart P). The State believes the NSPS is more stringent than its Sulfur Oxide Emissions—Primary Copper Smelter rule. Additionally, the State has incorporated by reference the NSPS in ARM 17.8.302(1)(b) and has been delegated the authority to implement them (*see* 66 FR 42427, August 13, 2001). Because there are no existing copper smelters in the State and any new copper smelter would be subject to NSPS, EPA believes it is acceptable to remove this rule from the SIP.

D. December 20, 2001 Revisions

1. ARM 17.8.102—Incorporation by Reference—Publication Dates

This section was revised to update the dates of documents which are incorporated by reference. The 2000 editions of the Code of Federal Regulations and the Administrative Rules of Montana are referenced in the regulation. In addition, the incorporation by reference of the United States Code (U.S.C.) has been changed to refer to the 1994 edition. These changes are necessary to allow the State to include the most recent editions of State statutes and rules and federal regulations. Specifically, incorporation by reference changes were made to ARM 17.8.102(1)(a), (b) and (d).

2. ARM 17.8.103—Incorporation by Reference

a. 17.8.103(1)(m)—This section was revised to make minor corrections to citation references to the Clean Air Act (CAA). The reference to section 7412(b)(1) of the CAA was changed to 112(b)(1).

b. 17.8.103(1)(n) and (p)—These sections were revised to update references to rules concerning hazardous waste to reflect renumbering of the State's rules. References to section 54 of the State rules have been changed to reference section 53. These sections also contain minor grammatical revisions.

3. ARM 17.8.302—Incorporation by Reference

a. 17.8.302(1)(d)—This section was revised to update references to rules concerning hazardous waste to reflect renumbering of the State's rules. Reference to section 54 of the State rules have been changed to reference section 53.

b. 17.8.302(1)(e)—This section was changed to correct a minor grammatical error.

c. 17.8.302(1)(f)—This section was amended to incorporate by reference the Federal National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills. The EPA adopted this rule on January 12, 2001 (40 CFR 63, subpart MM).

4. ARM 17.8.602(1) and (2)—Incorporation by Reference

This section was revised to update references to rules concerning hazardous waste to reflect renumbering of the State's rules. Reference to section 54 of the State rules has been changed to reference section 53.

5. ARM 17.8.702(1)(g)—Incorporation by Reference

This section was revised to make minor corrections to citation references to the CAA.

6. ARM 17.8.902(1)(e) and ARM 17.8.1002(1)(e)—Incorporation by Reference

These sections were revised to make minor corrections to citation references to the CAA. Specifically, reference to section 7503 of the CAA was changed to section 173. In addition, these sections were changed to correct minor grammatical errors.

EPA believes the December 20, 2001 revisions (identified 1–6 above) are minor and we are approving them into the SIP.

Also, pursuant to the State's December 20, 2001 submittal, which updated the effective date of the incorporated NSPS, on February 1, 2002, EPA updated the delegation of authority for the implementation and enforcement of the NSPS to the State. The February 1, 2002 letter of delegation to the State follows:

Honorable Judy Martz
Governor of Montana, State Capitol, Helena, Montana 59620–0801

Dear Governor Martz: On December 20, 2001 the State submitted a revision to the Administrative Rules of Montana (ARM) 17.8.102. Specifically, the State revised its rules to incorporate the July 1, 2000 Code of Federal Regulations. This revision, in effect, updates the citation of the incorporated Federal New Source Performance Standards (NSPS) to July 1, 2000.

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the State's regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of Montana and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of Montana. Therefore, pursuant to section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of Montana as follows:

(A) Responsibility for all sources located, or to be located, in the State of Montana subject to the standards of performance for new stationary sources promulgated in 40 CFR part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR part 60, as in effect on July 1, 2000. Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, and Ce. These subparts require state plans which are approved under a separate process pursuant to Section 111(d) of the Act.

(B) Not all authorities of NSPS can be delegated to States under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) Approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR part 60 being delegated in this letter, the enclosure lists examples of sections in 40 CFR part 60 that cannot be delegated to the State of Montana.

(C) As 40 CFR part 60 is updated, Montana should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

This delegation is based upon and is a continuation of the same conditions as those stated in EPA's original delegation letter of May 18, 1977, to the Honorable Thomas L. Judge, then Governor of Montana, except that condition 6, relating to Federal facilities, was voided by the Clean Air Act Amendments of 1977. Please also note that EPA retains concurrent enforcement authority as stated in condition 3. In addition, if at any time there is a conflict between a State and Federal NSPS regulation, the Federal regulation must be applied if it is more stringent than that of the State, as stated in condition 9. EPA published its May 18, 1977 delegation letter in the notices section of the September 6, 1977 **Federal Register** (42 FR 44573), along with an associated rulemaking notifying the public that certain reports and applications required from operators of new or modified sources shall be submitted to the State of Montana (42 FR 44544). Copies of the **Federal Register** notices are enclosed for your convenience.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of Montana will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** in the near future to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312–6005.

Sincerely yours,
Jack W. McGraw,
Acting Regional Administrator.

Enclosures.

cc: Jan Sensibaugh, Director, Montana Department of Environmental Quality, John Wardell, 8MO.

Enclosure to February 1, 2002 Letter Delegating NSPS in 40 CFR Part 60, to the State of Montana

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED

40 CFR subparts	Section(s)
A	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e).
Da	60.45a.
Db	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc	60.48c(a)(4).
Ec	60.56c(i), 60.8
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O	60.153(e).
DD	60.302(d)(3).
GG	60.332(a)(3) and 60.335(a).
VV	60.482–1(c)(2) and 60.484.
XX	60.502(e)(6)
AAA	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
JJJ	60.623.
NNN	60.663(e).
RRR	60.703(e).
SSS	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
WWW	60.754(a)(5).

II. Final Action

EPA is approving the following revisions to the Montana SIP submitted on April 30, 2001, May 21, 2001and December 20, 2001: revisions to ARM 17.8.102, 103, 302, 602, 702, 902 and 1002 and the removal of ARM 17.8.323. EPA believes these revisions to the SIP are consistent with the Clean Air Act and EPA policy. We are also announcing that on February 1, 2002, we updated the delegation of authority for the implementation and enforcement of the NSPS to the State.

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. The Montana SIP revisions that are the subject of this document do not interfere with the maintenance of the NAAQS or any other applicable requirement of the Act because of the following: (1) The update to incorporation by reference simply allows the State to include the most recent version of federal regulations; (2) the Sulfur Oxide Emissions—Primary Copper Smelter rule has been superceded by the federal NSPS regulations, which are more stringent than the existing rule; and (3) the NSPS delegation meets the requirements of section 111(c) of the CAA and 40 CFR part 60. Therefore, section 110(l) requirements are satisfied.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments be filed. This rule will be effective October 28, 2002, without further notice unless the Agency receives adverse comments by September 27, 2002.

If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. 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 (Public Law 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 October 28, 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 60

Environmental protection, Air pollution control, Aluminum, ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Drycleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Zinc.

Dated: August 13, 2002.

Robert E. Roberts,

Regional Administrator, Region 8.

40 CFR part 52, subpart BB of chapter I, title 40 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 BB—Montana

2. Section 52.1370 is amended by adding paragraph (c)(55) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(55) On April 30, 2001, May 21, 2001 and December 20, 2001, the Governor of Montana submitted revisions to the Administrative Rules of Montana. The State revised its Incorporation by Reference Rules and repealed a Sulfur Oxide Emissions—Primary Copper Smelter rule (ARM 17.8.323). ARM 17.8.323, last incorporated by reference at 40 CFR 52.1370(c)(49)(i)(A), is removed from the SIP.

(i) Incorporation by reference.

(A) Administrative Rules of Montana (ARM) sections 17.8.102(1)(a), (b), (c) and (d), effective 8/10/01; 17.8.103(1)(m), (n), (o), and (p), effective 8/10/01; 17.8.302(1)(d), (e) and (f), effective 8/10/01; 17.8.602(1) and (2), effective 8/10/01; 17.8.702(1)(g), effective 8/10/01; 17.8.902(1)(e), effective 8/10/01; and 17.8.1002(1)(e), effective 8/10/01.

[FR Doc. 02–21944 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 161–1161a; FRL–7269–2]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving a revision to the Missouri State Implementation Plan (SIP) and part 70 Operating Permits Program. This revision pertains to the state's part 70 operating permits rule. Approval of this revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revision.

DATES: This direct final rule will be effective October 28, 2002, unless EPA receives adverse comments by September 27, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

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

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is the part 70 Operating Permits Program?
What is being addressed in this document?
Have the requirements for approval of a SIP revision and part 70 program revision been met?
What action is EPA taking?

What Is a SIP?

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

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

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

What Is the Federal Approval Process for a SIP?

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

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

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

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

Enforcement of the state regulation before and after it is incorporated into

the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in the CAA.

What Is the Part 70 Operating Permits Program?

The CAA Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM_{10}; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revisions to the state and local agencies operating permits program are also subject to public notice, comment, and our approval.

What Is Being Addressed in This Document?

The state of Missouri has requested that EPA approve as a revision to the Missouri SIP and part 70 Operating Permits Program recently adopted revisions to rule 10 CSR 10–6.065, Operating Permits.

The operating permits rule defines air contaminant sources which are required to obtain operating permits and establishes procedures for obtaining and complying with operating permits; it does not establish any air quality standards or guidelines.

Prior to this revision, this rule applied to all incinerators. However, on May 28, 2000, the MDNR was notified by the state's Attorney General's office that the authority to regulate these types of incinerators was limited by state statute to the University of Missouri Extension Service.

On the recommendation of the Attorney General's office, the MDNR has revised this rule to add an exemption for this type of incinerator. Specifically, subparagraph (19) was added to subsection (3)(C)—Exempt Emission Units. This exemption reads: ''Noncommercial incineration of dead animals, the on-site incineration of resident animals for which no consideration is received or commercial profit is realized, as authorized in section 269.020.6, RSMo 2000.''

The MDNR has submitted emission inventory information which confirms that emissions from these sources is minimal (for example, particulate emissions are approximately one ton per year, or less), and that this exemption is not likely to have an adverse impact on ambient air quality. No existing incinerators in this source category are subject to the operating permit program, due to their *de minimis* size. These sources will continue to be constructed and operated in accordance with the requirements of the University of Missouri Extension Service.

In an unrelated revision, the MDNR has revised language in the Applicability section by removing a reference to ''asphaltic concrete plants'' because there is no definition for this type of source and no reason to specifically identify these sources since there is no special treatment for them. Deleting this reference does not change the applicability requirement for this rule. The rule is still applicable to asphaltic concrete plants.

Also, an exemption for restaurants and other retail establishments for the purpose of preparing food for employee and guest consumption was removed, and finally, a minor typographical revision was made by changing the spelling of ''BTUs'' to ''Btus.''

Further discussion and background information is contained in the technical support document prepared for this action, which is available from the EPA contact listed above.

Have the Requirements for Approval of a SIP Revision and Part 70 Program Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. Finally, the submittal meets the substantive requirements of Title V of the 1990 CAA Amendments and 40 CFR part 70.

What Action Is EPA Taking?

EPA is processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial, and make regulatory revisions required by state statute. Therefore, we do not anticipate any adverse comments.

Final action: EPA is approving as an amendment to the Missouri SIP revisions to rule 10 CSR 10–6.065, Operating Permits pursuant to section 110. EPA is also approving this rule as a program revision to the state's Operating Permits Program pursuant to part 70.

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 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism

implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

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

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for ''10–6.065'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
MISSOURI DEPARTMENT OF NATURAL RESOURCES				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.065	Operating Permits.	5/30/02	8/28/02 and FR cite.	The state rule has sections (4)(A), (4)(B), and (4)(H)—Basic State Operating Permits. EPA has not approved those sections. Section (6), Part 70 operating permits, has been approved as an integral part of the operating permit program and has not been approved as part of the SIP.
*	*	*	*	*

* * * * *

PART 70—[AMENDED]

1. The authority citation for Part 70 continues to read as follows:

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

Appendix A—[Amended]

2. Appendix A to Part 70 is amended under the entry for Missouri by adding paragraph (l) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Missouri

* * * * *

(l) The Missouri Department of Natural Resources submitted Missouri rule 10 CSR 10–6.065, ''Operating Permits'' on May 30, 2002, approval effective October 28, 2002.

* * * * *

[FR Doc. 02–21942 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0210; FRL–7195–9]

Azoxystrobin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of azoxystrobin in or on safflower. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on safflower. This regulation establishes a maximum permissible level for residues of azoxystrobin in this food commodity. The tolerance will expire and is revoked on June 30, 2005.

DATES: This regulation is effective August 28, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0210, must be received on or before October 28, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0210 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9364; e-mail address: Sec-18-Mailbox@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_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 ID number OPP–2002–0210. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the fungicide azoxystrobin, methyl(E)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate and the Z isomer of azoxystrobin, [methyl (Z)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrlate], in or on safflower at 1.0 part per million (ppm). This tolerance will expire and is revoked on June 30, 2005. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

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

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

occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

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

III. Emergency Exemption for Azoxystrobin on Safflower and FFDCA Tolerances

During recent years, growers in Montana and North Dakota have faced unusual frequent rains during June through August. Frequent rains favor development of Alternaria leaf spots caused by *Alternaria carthami* and *A. alternata*. Development of these diseases lead to severe yield losses. Montana and North Dakota have both declared crisis exemptions under FIFRA section 18 for the use of azoxystrobin on safflower for control of Alternaria Leafspot (*Alternaria carthami* and *A. alternata*). EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of azoxystrobin in or on safflower. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on June 30, 2005, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on safflower after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

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

IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of azoxystrobin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of azoxystrobin in or on safflower at 1.0 ppm. The most recent estimated aggregate risks resulting from the use of azoxystrobin are discussed in the **Federal Register** of September 21, 2001 (66 FR 48585) (FRL–6830–1), Final Rule establishing tolerances for residues of azoxystobin in/on acerola, atemoya, avocado, biriba, black sapote, leafy greens (Brassica) subgroup (subgroup 5B), bushberry subgroup (subgroup 13B), canistel, cherimoya, custard apple, eggplant, feijoa, grass forage, grass hay, guava, ilama, jaboticaba, jackfruit, juneberry, lingonberry, longan, loquat, lychee, mamey sapote, mango, okra, passion fruit, pawpaw, papaya, pepper, peppermint (tops), persimmon, pulasan, rambutan, salal, sapodilla, soursop, Spanish lime, spearmint (tops), star apple, starfruit, strawberry, sugar apple, tamarind, turnip (tops), watercress, wax jambu, and white sapote, because in that prior action, risks were estimated assuming tolerance level residues in all commodities for established tolerances, as well as those for which action was being proposed, such as in this safflower exemption use. Refer to the September 21, 2001 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment.

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. A summary of the toxicological dose and endpoints for azoxystrobin for use in human risk assessment is discussed in Unit III.A. of the **Federal Register** of September 29, 2000 (65 FR 58404) (FRL–6749–1).

EPA assessed risk scenarios for azoxystrobin under acute, chronic, and short- and intermediate-term exposures.

The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989-1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity.

The following assumptions were made for the acute exposure assessments: Tolerance level residues were assumed and it was also assumed that 100% of the crops and other commodities with proposed or established azoxystrobin tolerances contained those residues. Anticipated residues, and percent crop treated (PCT) values of less than 100%, were not used.

Using these exposure assessments, EPA concluded that azoxystrobin exposure from food consumption will utilize 11% of the aPAD for the U.S. population, 11% of the aPAD for females 13 years and older, and 20% of the aPAD for children 1 to 6 years, the subpopulation at greatest exposure. In addition, despite the potential for acute dietary exposure to azoxystrobin in drinking water, after calculating drinking water levels of concerns

(DWLOCs) and comparing them to conservative model estimated environmental concentrations (EECs) of azoxystrobin in surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 1.

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO AZOXYSTROBIN

Population Subgroup	aPAD (mg/kg)	%aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.67	11	107	0.06	21,000
Females (13 to 50 years)	0.67	11	107	0.06	18,000
Children (1 to 6 years)	0.67	20	107	0.06	5,400

The following assumptions were made for the chronic exposure assessments: Tolerance level residues were assumed and it was also assumed that 100% of the crops and other commodities with proposed or established azoxystrobin tolerances contained those residues. Anticipated residues and PCT values of less than 100%, were not used.

Using these exposure assumptions, EPA concluded that exposure to azoxystrobin from food will utilize 12% of the cPAD for the U.S. population, 11% of the cPAD for females 13 to 50 years, and 18% of the cPAD for children 1 to 6 years, the subpopulation at greatest exposure. Based on the use pattern, chronic residential exposure to residues of azoxystrobin is not expected. In addition, there is potential for chronic dietary exposure to azoxystrobin in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

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

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.18	12	33	.06	5,600
Females (13 to 50 years)	0.18	11	33	.06	4,800
Children (1 to 6 years)	0.18	18	33	.06	1,500
Seniors 55+	0.18	12	33	.06	5,600

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

Azoxystrobin is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for azoxystrobin. A short-term risk assessment is required for adults because there is a residential handler inhalation exposure scenario. In addition, a short-term risk assessment is required for infants and children because there is a residential post-application oral exposure scenario. As no short-term or intermediate-term dermal endpoint was established, there is no dermal component to these aggregate risk assessments. For adults, the daily inhalation dose is aggregated with the chronic exposure to food and water. For infants and children, the incidental oral exposure from residential post-application activities for infants and children was aggregated with chronic exposure from food and water. EPA has concluded that food and residential exposures aggregated result in aggregate margin of exposures (MOEs) of 1,183 for adults and 490 for children 1 to 6 years. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term were calculated and compared to the EECs for chronic exposure of azoxystrobin in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO AZOXYSTROBIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
U.S. population	1,183	100	33	0.06	8,050

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO AZOXYSTROBIN—Continued

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
Children (1 to 6 years)	490	100	33	0.06	2,000

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

Azoxystrobin is currently registered for use(s) that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for azoxystrobin. An intermediate-term risk assessment is not required for adults because residential handler scenarios are not expected to occur for longer than a short-term timeframe. However, an intermediate-term risk assessment is required for infants and children because of the residential post-application oral exposure scenario. As no dermal endpoint was established, there is no dermal component to this aggregate risk assessment. As was necessary for the short-term aggregate assessment, the incidental oral exposure from residential post-application activities for infants and children was aggregated with average exposure from food and water. EPA has concluded that food and residential exposures aggregated result in an aggregate MOE of 580 for children 1 to 6 years. This aggregate MOE does not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of azoxystrobin in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO AZOXYSTROBIN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
Children (1 to 6 years old)	580	100	33	0.06	2,100

V. Other Considerations

A. Analytical Enforcement Methodology

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

B. International Residue Limits

No Codex, Canadian, or Mexican maximum residue levels have been established for residues of azoxystrobin in or on these commodities. Therefore, no tolerance discrepancies exist between countries for this chemical.

VI. Conclusion

Therefore, the tolerance is established for combined residues of azoxystrobin, methyl(E)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate and the Z isomer of azoxystrobin, [methyl (Z)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrlate] in or on safflower at 1.0 ppm.

VII. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0210 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 October 28, 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 (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your written request to the Office of the

Hearing Clerk in Rm. 104, Crystal Mall # 2, 1921 Jefferson Davis Hwy., Arlington, VA. 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 (703) 603–0061.

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

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

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket ID number OPP–2002–0210, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VIII. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any 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 FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175.

Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: August 17, 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 374.

2. Section 180.507 is amended by alphabetically adding the following commodity to the table in paragraph (b) to read as follows:

§ 180.507 Azoxystrobin; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* *	* * *	
Safflower	1.0	6/30/05
* *	* * *	

* * * * *

[FR Doc. 02–21679 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0140; FRL–7192–1]

Thiophanate-methyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of thiophanate-methyl and its metabolite (methyl 2-benzimidazoyl carbamate (MBC)) in or on grapes, pears, potatoes, canola and pistachios. Cerexagri, Inc. and the Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective August 28, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0140, must be received on or before October 28, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0140 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mary L. Waller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308–9354; e-mail address: waller.mary@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0140. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential

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

II. Background and Statutory Findings

In the **Federal Register** of August 8, 1997 (62 FR 42788) (FRL–5237–6), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide petition (PP 5F4550) by Cerexagri, Inc., 2000 Market Street, Philadelphia, PA 19103. This notice included a summary of the petition prepared by Cerexagri, Inc., the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.371 be amended by establishing tolerances for residues of the fungicide thiophanate-methyl in or on grapes at 5.0 part per million (ppm), and in or on pears at 7.0 ppm.

In the **Federal Register** of March 28, 2002 (67 FR 14944) (FRL–6829–1), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of pesticide petitions (PP 2E6355, 2E6367, and 2E6368) by the Interregional Research Project Number 4 (IR-4), 681 U.S. Highway #1 South, North Brunswick, NJ, 08902–3390. This notice included a summary of the petition prepared by IR-4. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.371 be amended by establishing tolerances for combined residues of the fungicide thiophanate-methyl, (dimethyl [(1,2-phenylene)-bis(iminocarbonothioyl)] bis(carbamate), its oxygen analogue dimethyl-4,4-o-phenylenebis(allophonate), and its benzimidazole-containing metabolites (calculated as thiophanate-methyl), in or on potatoes at 0.05 ppm (PP 2E6367), on pistachios at 0.2 ppm (PP 2E6355), and on canola at 0.1 ppm (PP 2E6368).

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of thiophanate-methyl and its metabolite MBC, expressed as thiophanate-methyl on grapes at 5.0 ppm, on pears at 3.0 ppm, on pistachios at 0.1 ppm, on potatoes at 0.1 ppm, and on canola at 0.1 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by thiophanate-methyl are discussed in Table 1 below. In addition, the nature of the toxic effects caused by carbendazim or MBC are discussed in Table 2 below. MBC which is also a pesticide is the primary metabolite and the metabolite of concern for thiophanate-methyl. The tables also include the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY OF THIOPHANATE-METHYL

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity in rodents	NOAEL = 15.7 milligrams/kilograms/day (mg/kg/day) LOAEL = 155.0 mg/kg/day, based on anemia, increased serum cholesterol and calcium (males), increased liver and thyroid weights, increased kidney (males) weight and increased incidence of thyroid hyperplasia/hypertrophy, liver swelling and lipofuscin deposition, and glomerulonephrosis (males) were observed
870.3150	90–Day oral toxicity in dogs	NOAEL = 50 mg/kg/day LOAEL = 200 mg/kg/day, based on thin/dehydrated appearance, tarry stools, decreased body weight/weight gain, decreased food consumption, slight anemia, increased serum cholesterol, decreased serum T3/T4 (females), increased liver and thyroid weights, thyroid follicular cell hypertrophy and hyperplasia, hypoplasia/atrophy of the prostate, thymic involution/atrophy (males) and depletion of spleen lymphoid cells

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY OF THIOPHANATE-METHYL—Continued

Guideline No.	Study Type	Results
870.3200	21–Day dermal toxicity in rabbits	Systemic toxicity NOAEL = 100 mg/kg/day Systemic toxicity LOAEL = 300 mg/kg/day, based on decreased food consumption in females Slight dermal irritation was observed at all dose levels
870.3465	14–Day inhalation toxicity in rodents	NOAEL = 0.00514 mg/Liter (L) LOAEL = 0.0151 mg/L, based on increased incidence of alveolar macrophages, pneumonocyte hyperplasia of the lung and nonsuppurative alveolitis
870.3700	Developmental toxicity in rodents	Maternal NOAEL = 300 mg/kg/day Maternal LOAEL = 1,000 mg/kg/day based on decreased body weight gain Developmental NOAEL ≥ 1,000 mg/kg/day LOAEL > 1,000 mg/kg/day
870.3700	Developmental toxicity in rodents	Maternal NOAEL = 18 mg/kg/day Maternal LOAEL = 85 mg/kg/day based on decreased food consumption Developmental NOAEL ≥ 163 mg/kg/day (HDT) Developmental LOAEL none established
870.3700	Developmental toxicity in rabbits	Maternal NOAEL = 6 mg/kg/day Maternal LOAEL = 20 mg/kg/day, based on transiently decreased body weight gain, increased abortion/total litter loss Developmental NOAEL ≥ 20 mg/kg/day Developmental LOAEL - none established
870.3700	Developmental toxicity in rabbits	Maternal NOAEL = 10 mg/kg/day Maternal LOAEL = 20 mg/kg/day, based on decreased body weight gain and food consumption Developmental NOAEL = 20 mg/kg/day Developmental LOAEL = 40 mg/kg/day, based on increased supernumerary ribs and decreased fetal weight
870.3800	Reproduction and fertility effects	Parental systemic NOAEL < 13.7 mg/kg/day Parental systemic LOAEL = 13.7 mg/kg/day based on hepatocellular hypertrophy and thyroid hypertrophy/hyperplasia Reproductive NOAEL ≥ 138.9 mg/kg/day Reproductive LOAEL > 138.9 mg/kg/day Offspring NOAEL = 13.7 mg/kg/day Offspring LOAEL = 43.3 mg/kg/day based on slightly reduced body weights of the F2b offspring during lactation
870.3800	Reproduction and fertility effects	Parental systemic/reproductive NOAEL ≥ 32 mg/kg/day Parental/systemic/reproductive LOAEL > 32 mg/kg/day Offspring NOAEL = 8 mg/kg/day Offspring LOAEL = 32 mg/kg/day based on slightly decreased mean litter weights
870.4100	Chronic toxicity dogs	NOAEL = 8 mg/kg/day LOAEL = 40 mg/kg/day based on decreased body weight/weight gain, markedly increased serum TSH (1 male) and decreased T4 (males), increased serum cholesterol (males), increased abs/rel thyroid weights (both sexes) and thyroid follicular cell hypertrophy (females)
870.4100	Chronic toxicity dogs	NOAEL = 23.7 mg/kg/day LOAEL = 123.3 mg/kg/day based on hepatocellular hypertrophy in females
870.4100	Chronic toxicity in rodents	NOAEL = 5.75 mg/kg/day LOAEL = 24.3 mg/kg/day based on decreased body weight and body weight gain in both sexes and increased incidence of thyroid and testicular microscopic effects in males
870.4100 870.4200	Chronic toxicity/Carcinogenicity in rodents	NOAEL = 8.8 mg/kg/day LOAEL = 54.4 mg/kg/day based on decreased body weight/weight gain (males; marginal in females), decreased food efficiency (males; marginal in females), sporadic effects on circulating T3/T4 and TSH, increased serum cholesterol and creatinine, decreased serum cholinesterase in females, increased liver, thyroid and kidney weights, liver hypertrophy and lipofuscin accumulation, thyroid hypertrophy and hyperplasia and lipofuscin accumulation in the kidney

TABLE 2.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY OF MBC

Guideline No.	Study Type	Results
870.3150	90–Day oral toxicity in dogs	NOAEL = 11.3 mg/kg/day (F), 14.4 mg/kg/day (M) LOAEL = 35 mg/kg/day (F), 40.7 mg/kg/day (M) based on histopathology changes in liver 1/4 males and 1/4 females) and testes (¼ males) and increased alkaline phosphatase, cholesterol and serum glutamate pyruvate transaminase (SGPT). Liver effects included hepatic cirrhosis (hepatic cell necrosis, tubular collapse, and increased fibrous connective tissue around triads)
870.3700	Developmental toxicity in rodents	Maternal NOAEL = 20 mg/kg/day Maternal LOAEL = 90 mg/kg/day based on increased absolute liver weight Developmental NOAEL = 10 mg/kg/day Developmental LOAEL = 20 mg/kg/day based on decreased fetal body weight and increases in skeletal variations and a threshold for malformations
870.3700	Developmental toxicity in nonrodents	Maternal NOAEL = 20 mg/kg/day Maternal LOAEL = 125 mg/kg/day based on abortions and decreased body weight Developmental NOAEL = 10 mg/kg/day Developmental LOAEL = 20 mg/kg/day based on decreased implantations and litter size, and increased resorptions. Malformations (fused ribs, and malformed cervical vertebrae) were noted at 125 mg/kg/day)
870.3800	Reproduction and fertility effects	Reproductive NOAEL = 25 mg/kg/day Reproductive LOAEL = 250 mg/kg/day based on toxic signs of decrased pup weight noted at weaning
870.4100	Chronic toxicity in dogs	NOAEL = 2.5 mg/kg/day LOAEL = 12.5 mg/kg/day based on swollen, vacuolated hepatic cells, hepatic cirrhosis and chronic hepatitis and biochemical alterations indicative of liver damage (i.e., increased cholesterol, total protein, serum glutamate pyruvate transaminase (SGPT) and alkaline phosphatase levels, and decreased A/G ratio)
870.4100	Chronic toxicity in dogs	NOAEL = 6.43 mg/kg/day (200 ppm) LOAEL = 16.54 mg/kg/day (500 ppm) based on possible transient increase in cholesterol (males and females) consistent
870.4100 870.4200	Chronic toxicity/Carcinogenicity in rodents	NOAEL = 25 mg/kg/day LOAEL = 250 mg/kg/day based on statistically significant decreases in red blood cell parameters (hematocrit, hemoglobin an red blood cells) in females and histological lesions in the liver (cholangiohepatitis and pericholangitis) in males and females. No evidence of carcinogenicity
870.4200	Carcinogenicity in rodents	NOAEL (non-cancer systemic) = 75 mg/kg/day LOAEL (non-cancer systemic) = 225 mg/kg/day based on liver toxicity (hepatocellular necrosis and swelling), body weight decrease and lymphoid depletion. In both sexes, there was an increased incidence of liver tumors In males, hepatocellular carcinomas were noted at 225 mg/kg/day, while females exhibited carcinomas and adenomas at all dose levels
870.4200	Carcinogenicity in mice	NOAEL (non-cancer systemic) = 34.4–41.9 mg/kg/day LOAEL (non-cancer systemic) = 522–648 mg/kg/day based on increases the incidences of hepatic cell hypertrophy, clear cell foci and hepatocellular necrosis. No increased incidence of carcinogenicity was noted
870.4200	Carcinogenicity in mice	NOAEL = 45 mg/kg/day LOAEL = 750 mg/kg/day based on hepatic alterations which included increased relative liver weights in both sexes, increased number of foci of cellular alterations in the liver in females, neoplastic nodules in females and hepatoblastomas in males
NA	Single dose (gavage) rat study	NOAEL: none observed LOAEL: 50 mg/kg/day based on premature release of immature germ cells 2 days post exposure, and atrophy of a few seminiferous tubules and significant decrease in seminiferous tubule diameter 70 days post exposure

B. Toxicological Endpoints

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

The Agency used a toxic equivalency factor (TEF) approach to sum exposure

and risk estimates from TM and MBC plus other metabolites of concern as MBC equivalents. A TEF approach was used because both TM and MBC share common toxicological effects (i.e., developmental and liver effects, and liver tumors), and because individuals may be exposed to both compounds simultaneously on food commodities, in drinking water and on treated lawns. Using the TEF approach, all thiophanate-methyl dietary exposure estimates were adjusted upwards to account for differences in acute population adjusted doses (aPADs) and chronic population adjusted doses (cPADs) between thiophanate-methyl and MBC.

The Population Adjusted Dose (PAD) is the adjusted Reference Dose (RfD) reflecting the retention or reduction of the FQPA safety factor for all populations. The PAD is the RfD which is derived from an exposure level at which there are no statistically or biologically significant increases in the frequency or severity of adverse effects between the exposed population and its appropriate control, along with the application of uncertainty factors. The percent of the PAD is calculated as the ratio of the exposure value to the PAD (exposure/PAD x 100 = % PAD). A non-cancer TEF is derived based on a ratio of the MBC PAD to the TM PAD.

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

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

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer}= point of departure/exposures) is calculated. A summary of the toxicological endpoints for thiophanate-methyl used for human risk assessment is shown in the following Table 3. Table 4 summarizes the toxicological endpoints for MBC.

TABLE 3.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR THIOPHANATE-METHYL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and/or Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary, females 13–50 years	NOAEL = 20 mg/kg/day UF = 100 Acute RfD = 0.2 mg/kg/day	FQPA SF = 3 aPAD = acute RfD FQPA SF = 0.067 mg/kg/day	1997 Rabbit developmental study LOAEL = 40 mg/kg/day based on supernumerary ribs in fetuses of exposed dams and decreased fetal weight
Acute dietary, General population	NOAEL = 40 mg/kg/day UF = 100 Acute RfD = 0.4 mg/kg/day	FQPA SF = 3 aPAD = acute RfD FQPA SF = 0.13 mg/kg/day	Chronic oral toxicity dog study LOAEL = 200 mg/kg/day based on tremors 2–4 hours post-dosing in 7 of 8 dogs
Chronic dietary	NOAEL = 8 mg/kg/day UF = 100 Chronic RfD = 0.08 mg/kg/day	FQPA SF = 3 cPAD = chronic RfD FQPA SF = 0.027 mg/kg/day	Chronic oral toxicity dog study LOAEL = 40 mg/kg/day based on thyroid effects and decreased body weight
Short- and intermediate-term - Incidental ingestion	Oral NOAEL = 10 mg/kg/day	LOC for MOE = 300 for all residential populations	1997 Rabbit developmental study LOAEL = 20 mg/kg/day based on decreased maternal body weight and food consumption
Short- and intermediate term - dermal	Dermal NOAEL = 100	LOC for MOE = 300 for all residential populations	21–day rabbit dermal toxicity study LOAEL = 300 mg/kg/day based on decreased body weight (28%) and food consumption (15%)
Short- and intermediate term - inhalation**	Oral NOAEL = 10 mg/kg/day (inhalation absorption rate = 100% relative to oral absorption)	LOC for MOE = 300 for all residential populations	1997 Rabbit developmental study LOAEL = 20 mg/kg/day based on decreased maternal body weight and food consumption

TABLE 3.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR THIOPHANATE-METHYL FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and/or Level of Concern for Risk Assessment	Study and Toxicological Effects
Long-term dermal and inhalation**	NOAEL = 8 mg/kg/day (dermal absorption rate = 7% relative to oral absorption; inhalation absorption rate = 100% relative to oral absorption)	LOC for MOE = 300 for all residential populations	Chronic oral toxicity dog study LOAEL = 40 mg/kg/day based on thyroid effects and decreased body weight
Cancer**	Q1* = 1.16 x 10^{-2} (mg/kg/day)$^{-1}$ (dermal absorption rate = 7% relative to oral absorption; inhalation absorption rate = 100% relative to oral absorption)	Q1* = 1.16 x 10^{-2} (mg/kg/day)$^{-1}$	78–Week mouse study based on male mouse liver adenoma and/or carcinoma and/or hepatoblastoma combined tumor rates

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

**Since an oral value was selected, 7% dermal absorption factor and 100% inhalation absorption factor (equivalent to oral absorption) should be used for route-to-route extrapolation.

TABLE 4.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR MBC FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and/or Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary, females 13–50 years	NOAEL = 10 mg/kg/day UF = 100 Acute RfD = 0.1 mg/kg/day	FQPA SF = 10 aPAD = acute RfD FQPA SF = 0.01 mg/kg/day	Rat developmental study with MBC LOAEL = 20 mg/kg/day based on decreased fetal body weight and increases in skeletal variations and a threshold for malformations in fetuses of exposed dams
Acute dietary, General population, including infants and children	LOAEL = 50 mg/kg/day UF = 300 acute RfD = 0.17 mg/kg/day	FQPA SF = 10 for infants and children FQPA SF = 1 general population aPAD = acute RfD FQPA SF = 0.017 mg/kg/day (infants and children) = 0.17 (general population)	Single dose rat study LOAEL = 50 mg/kg/day based on adverse testicular effects including sloughing (premature release) of immature germ cells 2 days post exposure, atrophy of a few seminiferous tubules in one testicle, significant decrease in seminiferous tubule diameter, and slight abnormal growth of the efferent ductules at 70 days post exposure
Chronic dietary	NOAEL = 2.5 mg/kg/day UF = 100 Chronic RfD = 0.025 mg/kg/day	FQPA SF = 10 for children and females 13–50 yrs FQPA SF = 1 general population cPAD = chronic RfD ÷FQPA SF = 0.0025 mg/kg/day (children and females) = 0.025 (general pop.)	2–year dog study with MBC LOAEL = 12.5 mg/kg/day based on histopathological lesions of the liver characterized as swollen, vacuolated hepatic cells, hepatic cirrhosis and chronic hepatitis in both sexes
Short-term incidental ingestion	Oral NOAEL = 10 mg/kg/day	LOC for MOE = 1,000 for all residential populations	1997 Rabbit developmental study with thiophanate-methyl LOAEL = 20 mg/kg/day based on decreased maternal body weight and food consumption
Intermediate - term Incidental ingestion	Oral NOAEL = 11 mg/kg/day (rounded to 10 mg/kg/day)	LOC for MOE = 1,000 for all residential populations	90–day dog feeding study with MBC LOAEL = 35 mg/kg/day based on adverse liver effects.
Short- and intermediate term dermal**	Oral NOAEL = 10 mg/kg/day (dermal absorption rate = 3.5% relative to oral absorption)	LOC for MOE = 1,000 for children and females (residential)	Rat developmental study with MBC LOAEL = 20 mg/kg/day based on decreased fetal body weight and increases in skeletal variations and a threshold for malformations in fetuses of exposed dams

TABLE 4.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR MBC FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and/or Level of Concern for Risk Assessment	Study and Toxicological Effects
Long-term dermal**	Oral NOAEL = 2.5 mg/kg/day (dermal absorption rate = 3.5% relative to oral absorption)	LOC for MOE = 1,000 for children and females (residential)	2–year dog study with MBC LOAEL = 12.5 mg/kg/day based on histopathological lesions of the liver characterized as swollen, vacuolated hepatic cells, hepatic cirrhosis and chronic hepatitis in both sexes of dogs
Short-, intermediate- and long term inhalation	Inhalation NOAEL = 0.96 (10 mg/m^3)	LOC for MOE = 1,000 for children and females (residential)	90–day rat inhalation study with benomyl LOAEL = 4.8 mg/kg/day (50 mg/m^3) based on Olfactory degeneration in the nasal cavity
Cancer**	Q1* = 2.39 x 10^{-3} (mg/kg/day)$^{-1}$ (dermal absorption rate = 3.5% relative to oral absorption; inhalation absorption rate = 100% relative to oral absorption)	Q1* = 2.39 x 10^{-3} (mg/kg/day)$^{-1}$	2–Year mouse study with MBC based on hepatocellular (adenoma and/or carcinoma) tumors in female CD–1 mice

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.
**Since an oral value was selected, 7% dermal absorption factor and 100% inhalation absorption factor (equivalent to oral absorption) should be used for route-to-route extrapolation.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.371) for the residues of thiophanate methyl (dimethyl [(1,2- phenylene)-bis(iminocarbonothioyl)] bis[carbamate]), its oxygen analogue dimethyl-4,4-o-phenylene bis (allophonate), and its benzimidazole-containing metabolites (calculated as thiophanate-methyl) in or on the following crops and commodities: Almonds, apples, apricots, beans, celery, cherries, cucumbers, melons, nectarines, onions, pecans, peaches, peanuts, plums, potatoes (seed pieces), prunes, pumpkins, soybeans, squash, strawberries, sugar beets, wheat, eggs, and the meat, meat-by-products, fat and liver of cattle, goats, hogs, horses, and sheep. Emergency exemptions have been established for the use of thiophanate-methyl on citrus and blueberries. The Agency is modifying the tolerance expression so that the residues to be regulated in plant and animal commodities for purposes of tolerance enforcement will consist of the residues of thiophanate-methyl and its metabolite (methyl 2-benzimidazolyl carbamate (MBC)), expressed as thiophanate-methyl.

Exposure from the use of benomyl, another pesticide which degrades under environmental conditions to MBC was not included in this assessment because the only basic registrant of benomyl requested voluntary cancellation of all benomyl-containing products in April 2001. Product cancellations were effective in early 2001 with sales and distribution of benomyl containing products ending by December 31, 2001. However, the Agency conducted a dietary assessment using USDA Pesticide Data Program (PDP) monitoring data for benomyl, measured as MBC to estimate residues of thiophanate-methyl because MBC is a common metabolite of both benomyl and thiophanate-methyl. PDP data were available for apples, bananas, beans, cucurbits, peaches and strawberries. The PDP analytical method employs a hydrolysis step that converts any benomyl present to MBC. MBC is then quantitated and corrected for molecular weight, and results are measured as the sum of benomyl and MBC. Therefore, using MBC data to estimate thiophanate-methyl residues may be a conservative approach in that it may overestimate thiophanate-methyl residues. Risk assessments were conducted by EPA to assess dietary exposures from thiophanate-methyl and MBC in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Maximum percent crop treated (PCT) estimates and anticipated residue estimates were used. The estimate of acute dietary exposure to thiophanate-methyl for the most highly exposed population subgroup of concern, (infants <1 year) is 25% of the aPAD at the 99.9th percentile and the estimate for the general U.S. population is 10% of the aPAD at the 99.9th percentile. The estimate of acute dietary exposure to MBC + other metabolites from thiophanate-methyl for the most highly exposed population subgroup of concern, (infants <1 year) is 89% of the aPAD at the 99.9th percentile and the estimate for the general U.S. population is 4% of the aPAD at the 99.9th percentile.

In addition, acute dietary risk estimates for thiophanate-methyl and MBC and other metabolites of concern were added together for females (13–50 years) to account for the total acute dietary risk estimate for developmental effects. Addition of acute dietary risk estimates is appropriate since both chemicals have aPADs that are based on developmental effects for females, and because individuals may consume both residues simultaneously on a given food commodity. The estimate of total acute dietary exposure to thiophanate-methyl and MBC for the only population subgroup of concern, (females 13–50 years) is 51% of the aPAD.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the

individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Average residues from field trial data and average PCT estimates were used. The chronic dietary exposure estimates for thiophanate-methyl are as follows: children (1–6 years) is 2.3% of the cPAD; infants (<1 year) is 1.6% of the cPAD; children (7–12 years) is 1.3% of the cPAD; general U.S. population is 0.8% of the cPAD; females (13–50 years) and males (13–19 years) is 0.6% of the cPAD. The chronic dietary exposure estimates for MBC and other metabolites from thiophanate-methyl are as follows: children (1–6 years) is 26% of the cPAD; children (7–12 years) is 16% of the cPAD; infants (<1 year) is 12% of the cPAD; females (13–50) is 8% of the cPAD; general U.S. population and males (13–19 years) is 1% of the cPAD. The total chronic dietary exposure estimates for thiophanate-methyl and MBC are as follows: Children (1–6 years) is 28% of the cPAD; children (7–12 years) is 17% of the cPAD; infants (<1 year) is 13% of the cPAD; females (13–50 years) is 8.5% of the cPAD; general U.S. population is 1.7% of the cPAD; and males (13–19 years) is 1.6% of the cPAD.

iii. *Cancer*. Cancer risk estimates included existing uses, new uses, and 1 year of citrus use under an emergency exemption amortized over 70 years. The lifetime cancer risk estimate from thiophanate-methyl using benomyl/MBC PDP data is 7.6×10^{-7}. The lifetime cancer risk estimate from MBC and other metabolites from thiophanate-methyl is 9.3×10^{-8}. The total lifetime thiophanate-methyl and MBC dietary cancer risk estimate is 8.5×10^{-7}. It is appropriate to add the cancer risk estimates from TM and MBC because both chemicals cause mouse liver tumors, and because both chemicals may be found concurrently on food items treated with thiophanate-methyl.

iv. *Anticipated residue and PCT information*. Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a Data Call-In for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of these tolerances.

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

The Agency used PCT information for almonds, apples, apricots, beans (succulent or dried), green beans, bananas, blueberries, canola, celery, cherries, citrus, cucurbits (cantaloupe, cucumbers, melons, pumpkins, squash, watermelons), garlic, grapes, nectarines, onions (bulb and green), peaches, peanuts, pears, pecans, pistachios, plums/prunes, potatoes, soybeans, strawberries, sugar beets, and wheat. In addition, when PCT estimates indicated no thiophanate-methyl use, a default minimum assumption of 1% crop treated was applied. Where residues were nondetectable, one-half the limit of quantitation was assumed for treated commodities.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimated. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which thiophanate-methyl may be applied in a particular area.

2. *Dietary exposure from drinking water*. Available environmental fate data suggest that thiophanate-methyl rapidly degrades to MBC following application to ornamentals, turf and agricultural crops. MBC has a low potential to leach to ground water in measurable quantities from most typical uses based on its high soil organic carbon partition coefficient (Koc) of 2,100 L/kg. Available data indicate that the primary metabolite of thiophanate-methyl, MBC, is less mobile and significantly more persistent in many soils, especially under anaerobic conditions. The MBC aerobic soil half-life is 320 days, while the aerobic and anaerobic aquatic metabolism half lives are 61 and 743 days, respectively. The Agency concludes that MBC will probably not reach ground water to any significant concentration due to its high Koc.

The Agency currently lacks sufficient monitoring data to complete a quantitative drinking water exposure analysis and risk assessment for thiophanate-methyl and MBC. Therefore, the Agency is presently relying on water-quality models to estimate environmental concentrations (EECs) of pesticides in ground and surface water in order to estimate drinking water exposures to thiophanate-methyl and MBC. None of these models include consideration of

the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

EPA does not use these model estimates to quantify risk. Currently, EPA uses a drinking water level of comparison (DWLOC) as a surrogate to capture risk associated with exposure to pesticides in drinking water. A DWLOC represents the concentration of a pesticide in drinking water that would be acceptable as an upper limit in light of total aggregate exposure to that pesticide from food, water, and residential uses (if any). A DWLOC will vary depending on the residue level in foods, the toxicity endpoint and the drinking water consumption patterns and body weights for specific population subgroups. The calculated DWLOC is compared to the model estimate (EEC), and if the model estimates are below the DWLOC, the risks are not considered to be of concern.

For estimating ground water concentrations of thiophanate-methyl and MBC, EPA used the Screening Concentration in Ground Water (SCI-GROW) model. The SCI-GROW is based on scaled ground water concentration from ground water monitoring studies, and environmental fate properties (aerobic soil half-lives and organic carbon partitioning coefficients-Koc's). SCI-GROW provides a screening concentration which is an estimate of likely ground water concentrations if the pesticide were used at the maximum allowed label rate in areas with ground water vulnerable to contamination. In most cases, a majority of the pesticide use area will have ground water that is less vulnerable to contamination than the areas used to derive the SCI-GROW estimate. Using SCI-GROW, the acute and chronic ground water EEC for thiophanate-methyl ranged from 0.033 part per billion (ppb) to 0.006 ppb, and the acute and chronic EEC for MBC ranged from 0.51 ppb to 3.0 ppb.

For estimating surface water concentrations of thiophanate-methyl and MBC, EPA used a Tier II model, Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS). PRZM (3.12)/EXAMS (2.97.5) modeling uses an index reservoir and a percent crop area (PCA) adjustment to estimate concentrations in surface water used as a source of drinking water. The index reservoir represents a watershed that is more vulnerable than most watersheds used as drinking water sources. The index reservoir is used as a standard watershed that is combined with local soils, weather, and cropping practices to represent a vulnerable watershed for each crop that could support a drinking water supply. If a community derives its drinking water from a large river, the estimated exposure would likely be higher than the actual exposure. Conversely, a community that derives its drinking water from smaller bodies of water with minimal outflow would likely get higher drinking water exposure than estimated using the index reservoir. Areas with a more humid climate that use a similar reservoir and cropping patterns would likely get more pesticides in their drinking water than predicted levels.

A single steady flow was used to represent the flow through the reservoir. Discharge from the reservoir also removes chemicals so this assumption will underestimate removal of the pesticide from the reservoir during wet periods and overestimate removal during dry periods. This assumption can both underestimate or overestimate the concentration of pesticide in the reservoir depending upon the annual precipitation pattern at the site. The index reservoir scenario uses the characteristic of a single soil to represent all soils in the basin. Soils can vary substantially across even small areas, thus, this variation is not reflected in these simulations.

The index reservoir scenario does not consider tile drainage. Areas that are prone to substantial runoff are often tiled drained. This assumption may underestimate exposure, particularly on a chronic basis. However, the watershed used to model the EECs for thiophanate-methyl and MBC had no documented tile drainage. Additionally, PRZM/EXAMS is unable to easily model spring and fall turnover which would result in complete mixing of a chemical through the water column during these events. Because of this inability, the watershed used was simulated without stratification. However, there is data that suggests that the watershed used does stratify in the deepest parts of the lake at least in some years, thereby adding to the conservativeness of the estimate.

The EEC's for thiophanate-methyl and MBC were estimated based on the new maximum agricultural application rate which was the proposed new use on pears (2.8 pound active ingredient/Acre/season (lb./a.i./acre)). The previous existing maximum label rate was reduced by half as a result of risk mitigation. The EEC's using the new maximum rate are as follows: The acute or peak (1 in 10 years) EEC for thiophanate-methyl is 8.2 ppb and 23.5 ppb for MBC; the non-cancer chronic (1 in 10 years) EEC for thiophanate-methyl is 0.70 ppb and 14.0 ppb for MBC; and the cancer chronic (mean 36–year annual concentration) EEC is 0.5 ppb for thiophanate-methyl and 11.5 ppb for MBC.

As a result of risk mitigation, the maximum nonagricultural application rate (tees and greens of golf courses - 8.16 lb. a.i./acre) was also substantially reduced. Using the mitigated rate (tees and greens of golf courses - 8.16 lb. a.i./acre), the EEC's for thiophanate-methyl and MBC are as follows: The acute EEC for thiophanate-methyl is 22.7 ppb and 25 ppb for MBC; the non-cancer chronic EEC for thiophanate-methyl is 0.92 ppb and 8.8 ppb for MBC; and the cancer chronic EEC is 0.41 ppb and is 6.0 ppb for MBC.

Since the chronic and cancer endpoints are based on the same adverse effect, the thiophanate-methyl and MBC EECs are added together. The total thiophanate-methyl plus MBC chronic EEC is 9.72 ppb and the cancer EEC is 6.39 ppb.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Thiophanate-methyl is currently registered for use on the following residential non-dietary sites: Lawns and home orchards. MBC is registered for use as an in-can paint preservative which can be used in residential settings and as a fungicide applied as a tree injection. The risk assessment was conducted using the following residential exposure assumptions: Potential residential or nonoccupational post-application exposure to adults and children may occur as a result of residential application or professional lawn care operator application of thiophanate-methyl products to home lawns and golf courses.

As a result of risk mitigation, application rates for nonagricultural uses have been reduced, the use of thiophanate-methyl by residents will be limited to granular products for broadcast turf treatment and liquid treatments for ornamentals, and application using a belly grinder or by hand will be removed from pesticide labels. In addition, the Agency has negotiated a reduction in the rate of MBC used as an in-can paint preservative. The following exposure

and risk estimates are based on the mitigated rates and label revisions negotiated by the Agency.

i. *Chronic exposure and risk*. The Agency estimated cancer risks based on the number of years a person typically works in a home garden (50 years) and lifetime (70 years) which are also the population defaults used by the Agency. Therefore, cancer risks are based on 50 applications in a lifetime. A cancer risk assessment is considered appropriate because thiophanate-methyl has been assessed as a carcinogen using a model for carcinogenesis that assumes any exposure at any point in time may result in carcinogenic effects. These estimated risk do not exceed the Agency's level of concern.

Lifetime cancer risk estimates for applying thiophanate-methyl products once per year for 50 years (i.e., 50 times in a lifetime) range from 4.7×10^{-9} to 2.8×10^{-8} for ornamental treatment using a backpack sprayer and a ready to use hose-end sprayer, respectively. Cancer risk estimates for the other application methods are between these ranges.

Lifetime cancer risk estimates for post-application exposure to thiophanate-methyl ranged from 1.3×10^{-7} to 1.3×10^{-9} for adults. Cancer risk estimates were not calculated for children as the exposure scenario was not applicable.

ii. *Short- and intermediate-term exposure and risk*. All residential exposures are considered to be short-term (1–30 days) for residential handlers during the application of thiophanate-methyl products to turf and ornamentals. Intermediate- and long-term exposures of residential applicators were not anticipated based on the use pattern of thiophanate-methyl and information from the registrant. Considering toxicological criteria and potential for exposure, the Agency conducted dermal and inhalation exposure assessments. The Agency only assessed exposure to thiophanate-methyl because MBC risk from treated turf are considered to be negligible relative to thiophanate-methyl risks (i.e., at least 10 fold lower) based on chemical-specific turf transferable residue data.

Residential application of thiophanate-methyl products to lawns and ornamentals at the new maximum rate resulted in short-term risk estimates that are below the Agency's level of concern (i.e., total MOE <300). The inhalation MOE ranged from 140,000 to 620,000. The dermal MOE ranged from 1,900 to 37,000. Total dermal and inhalation MOEs range from 1,900 to 35,000.

Short-term risk estimates for residential/recreational post-application dermal exposure to adults resulted in estimates below the Agency's level of concern. The dermal MOE for adults ranged from 1,700 to 49,000. Short-term risk estimates for children (1–6 years) are as follows: MOE of 73,000 for incidental soil ingestion; MOE of 1,000 for contact with treated turf; MOE of 990 for object to mouth exposure; MOE of 250 for hand to mouth exposure; and MOE of 31 for incidental granular ingestion. The MOEs below 300 exceed the Agency's level of concern. However, the Agency believes that the exposure is significantly lower than that estimated in this assessment because the scenarios used to determine risk estimates are conservative and are considered as a screening level for risk. Both the adult and toddler transfer coefficients are upper percentile exposure duration values. Where study data were used, the risk estimates were better refined, and hence, less conservative. The dermal exposure estimates related to lawn skin contact which were based on study data were more refined than the estimates of incidental ingestion of thiophanate-methyl residues which were based on standard defaults from Agency standard operating procedures for residential exposure assessments. The registrant is undertaking a study to refine the oral exposures. If these data do not confirm that the Agency's estimates were overestimates, the registrant has agreed to cancel the use on turf in residential areas.

Inhalation exposures are thought to be negligible in outdoor post-application scenarios relative to dermal and oral exposures because of the low vapor pressure of thiophanate-methyl (1.3×10^{-5} milimeter mercury (mmHg)) and MBC (1×10^{-7} mmHg) and because the uses (and primary exposures) are outdoors allowing for significant dilution. As such, inhalation exposures were not considered in the post-application exposure assessment.

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity of thiophanate-methyl*. In assessing the potential for additional sensitivity of infants and children to residues of thiophanate-methyl and MBC, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The Agency determined that the FQPA safety factor should be retained at 3X for assessing the risk posed by thiophanate-methyl for the following reasons:

(i). The toxicity data base is incomplete (acute and subchronic neurotoxicity studies are required due to evidence of neurotoxicity) and the requirement for a developmental neurotoxicity study has been reserved.

(ii). The Agency evaluated the new 1997 prenatal developmental toxicity study in rabbits and classified this study as acceptable for assessment of susceptibility.

(iii). The Agency determined that the prenatal developmental toxicity study in the rat was acceptable for assessment of susceptibility.

(iv). The Agency concluded that the available data provided no indication of increased susceptibility for *in utero* exposure in the developmental studies

in rats and rabbits or following prenatal/postnatal exposure in the multi-generation reproduction studies in rats.

(v). The dietary (food and drinking water) and non-dietary exposure assessments will not underestimate the potential exposures for infants and children from the use of thiophanate-methyl.

3. *Prenatal and postnatal sensitivity of MBC.* The Agency determined that the FQPA Safety factor should be retained at 10X for assessing the risk posed by MBC for the following reasons:

(i). Evidence of increased susceptibility following *in utero* exposure to MBC in the prenatal developmental toxicity in rats and rabbits.

(ii). The need for developmental neurotoxicity study in rats for carbendazim.

4. *Conclusion*. Based on the developmental and reproductive data on thiophanate-methyl and MBC, EPA determined that an additional 3X safety factor for thiophanate-methyl and that an additional 10X safety factor for MBC for the protection of infants and children (as required by FQPA) should be retained.

E. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. The thiophanate-methyl acute dietary risk estimate uses 10% of the aPAD for the general U.S. population and 25% of the aPAD for the most highly exposed population subgroup of concern, infants, (<1 year). For MBC, the acute dietary risk estimate uses 4% of the aPAD for the general U.S. population and 89% of the aPAD for the population subgroup of concern, infants, (<1 year). The total thiophanate-methyl plus MBC acute dietary risk estimate for the only population subgroup of concern, females (13–50 years) uses 51% of the aPAD. The DWLOC based on simultaneous dietary exposure to both MBC and thiophanate-methyl which was converted to MBC equivalents resulted in the following DWLOCs: Infants (<1 year) 18 ppb; children (1–6 years) 57 ppb; females (13–50 years) 150 – 170 ppb; and general U.S. population 5,700 ppb. The lowest DWLOC for the population subgroup, infants (<1 year) does not exceed the EEC for ground water (0.033 ppb); however, the DWLOC does exceed the EEC for surface water (25 ppb). Although the EEC is exceeded, the DWLOC is greatly inflated as 50% of the aPAD percentage is consumed by citrus which is a 1–year registration only. When citrus is removed from the DWLOC estimation, the DWLOC becomes 94 ppb which is well above the EEC of 25 ppb. The DWLOC is significantly lowered by the addition of citrus because field trial data was used which results in an overly conservative estimation.

Another indication that the addition of citrus based on field trial data results in an over estimation is the fact that benomyl PDP data available for citrus indicated that there were zero hits out of 689 Florida samples of orange juice. These data were not used to refine the DWLOC estimation as the benomyl application rate is somewhat lower than the thiophanate-methyl rate approved in this year's emergency exemption for thiophanate-methyl. However, the Agency believes that while most growers used the benomyl rate as the emeregency exemption was approved later in the use season and thus fewer applications than were authorized were actually used. Furthermore, if the higher rate were used, the impact would be lessened by the fact that juice is a blended commodity. Therefore, although the DWLOC is exceeded, the acute dietary risk from food and water does not exceed the Agency's level of concern.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to thiophanate-methyl and MBC will utilize the following percentages of the RfD for the U.S. population: Thiophanate-methyl - 0.7%; MBC - 1.0% and total thiophanate-methyl plus MBC - 1.7%. The major identifiable subgroup with the highest aggregate exposure is children (1–6 years), and EPA has concluded that aggregate dietary exposure to thiophanate-methyl and MBC wil utilize the following percentages of the RfD: thiophate-methyl - 2.3%; MBC - 26% and total thiophanate-methyl plus MBC - 28%. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The aggregate chronic DWLOCs are as follows: 858 ppb for the general U.S. population; 69 ppb for females (13–50 years); 22 ppb for infants (<1 year); and 18 ppb for children (1–6 years). The aggregate surface water EEC for thiophanate-methyl is 0.7 ppb; 14 ppb for MBC and 14.7 ppb for thiophanate-methyl plus MBC. Therefore, the chronic aggregate risk to not exceed the Agency's level of concern.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Thiophanate-methyl and MBC are currently registered for use that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for thiophanate-methyl and MBC.

All residential exposures are considered to be short-term. The MOE's (converted to MBC equivalents) for

aggregate short-term exposure to thiophanate-methyl are as follows: Oral exposure of children (1–6 years) is 670; dermal exposure of children (1–6 years) is 1,000; and dermal exposure of females (13–50 years) is 1,315. The MOEs for aggregrate exposure to MBC from the use of MBC as an in-can paint preservative are 670 for dermal exposure and 770 for exposure via inhalation. The MOEs (converted to MBC equivalents) for the total thiophanate-methyl and MBC aggregate exposure are as follows: 630 for oral and dermal exposure of children (1–6 years); 770 for exposure via inhalation for females (13–50 years); and 620 for oral and dermal exposure for females (13–50 years). Although the MOEs below 1,000 exceed the Agency's level of concern, when considering the conservative method of exposure estimation previously discussed, and the negotiated risk mitigation whereby the registrant has agreed to conduct hand-press studies to help refine this assessment, the risks do not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population*. The total thiophanate-methyl and MBC dietary cancer risk is 8.5×10^{-7} for existing and new uses. The cancer risk from non-occupational residential exposure is 3.7×10^{-7}. The aggregate cancer risk is 1.2×10^{-6}. This risk estimate includes cancer risk from both thiophanate-methyl and MBC on food including all pending uses and section 18 uses, thiophanate-methyl exposure from treating ornamentals, thiophanate-methyl exposure from performing post-application lawn activities, and exposure from applying paint containing MBC. This is considered to be a high-end risk scenario since it is not expected that someone would treat ornamentals, perform high exposure post-application activities, and apply paint containing MBC every year for 70 years. Therefore, this estimate is considered to be a conservative estimate. Additionally, the cancer risk estimate based on the highest EEC (thiophanate-methyl plus MBC EEC) is 9.6×10^{-7}. This is also a very high-end risk estimate as it is based on the maximum rate being applied every season for 70 years. Thus, food plus water (assuming that the modeled surface water EEC is equivalent to concentrations in finished drinking water) plus non-occupational residential cancer risk is 2.2×10^{-6} which is still within the range considered as negligible. In addition, the cancer risk estimates using benomyl/MBC PDP monitoring data to estimate thiophanate-methyl residues are below 1×10^{-6} for thiophanate-methyl existing uses, new uses, and the amortized section 18 use on citrus. Therefore, the risks do not exceed the Agency's level of concern.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

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

B. International Residue Limits

The Codex Alimentarius Commission has established maximum residue limits (MRLs) for thiophanate-methyl residues in/on various plant and animal commodities. Codex MRLs for thiophanate-methyl are currently expressed as MBC. The Codex MRL residue definition and the U.S. tolerance definition are currently incompatible and will remain incompatible even after the U.S. tolerance definition is revised, as the revised tolerance definition will include both thiophanate-methyl and MBC.

C. Conditions

A 30–day plant back interval is required for crops without labeled uses of thiophanate-methyl. Registrations for the use on canola will be restricted to use in Minnesota, Montana and North Dakota (East of Interstate 15).

V. Conclusion

Therefore, the tolerances are established for residues of thiophanate-methyl and its metabolite (methyl 2–benzimidazoyl carbamate (MBC)), expressed as thiophanate-methyl in or on grapes at 5.0 ppm, on pears at 3.0 ppm, on pistachios at 0.1 ppm, on potatoes at 0.1 ppm, and on canola (restricted to use in Minnesota, Montana and North Dakota (East of Interstate 15)) at 0.1 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0140 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 October 28, 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 (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your written request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall # 2, 1921 Jefferson Davis Hwy., Arlington, VA. 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 (703) 603–0061.

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

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

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP–2002–0140, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

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

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: July 3, 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 374.

2. Section 180.371 is amended as follows:

i. By alphabetically adding entries for the commodities ''grape,'' ''pear,'' and ''pistachio'' and revising the entry for ''potatoes, seed treatment'' to read ''potato'' to the table in paragraph (a) as set forth below.

ii. By adding text and a table to paragraph (c):

§ 180.371 Thiophanate-methyl; tolerances for residues.

(a) *General.* Thiophanate-methyl and its metabolite (methyl 2-benzimidazoyl carbamate (MBC)), expressed as thiophanate-methyl

Commodity	Parts per million
* * *	* *
Grape	5.0
* * *	* *
Pear	3.0
* * *	* *
Pistachio	0.1
* * *	* *
Potato	0.1
* * *	* *

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(n), are established for the residues of thiophanate-methyl and its metabolite (methyl 2-benzimidazolyl carbamate (MBC)), expressed as thiophanate-methyl in or on the following raw agricultural commodity:

Commodity	Parts per million
Canola	0.1

* * * * *

[FR Doc. 02–21678 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0215; FRL–7195–7]

Pyriproxyfen; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for the residues of pyriproxyfen in or on acerola at 0.10 part per million (ppm), bushberry subgroup at 1.0 ppm, feijoa at 0.10 ppm, fruit, stone, group at 1.0 ppm, guava at 0.10 ppm, jaboticaba at 0.10 ppm, juneberry at 1.0 ppm, lingonberry at 1.0 ppm, longan at 0.30 ppm, lychee at 0.30 ppm, passionfruit at 0.10 ppm, pulasan at 0.30 ppm, rambutan at 0.30 ppm, salal at 1.0 ppm, spanish lime at 0.30 ppm, starfruit at 0.10 ppm, and wax jambu at 0.10 ppm. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective August 28, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0215, must be received on or before October 28, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0215 in the subject line on the first page of your response.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0215. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of June 5, 2002 (67 FR 38660) (FRL–7177–4), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170), announcing the filing of pesticide petitions (PP 1E6272, 1E6285, and 2E6353) by IR–4, Technology Centre of New Jersey, Rutgers University, 681 U.S. Highway No. 1 South, North Brunswick, NJ 08902–3390. This notice included a summary of the petitions prepared by Valent USA Corporation, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.510 be amended by establishing tolerances for residues of the insecticide pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy)ethoxypyridine, in or on acerola at 0.10 ppm, bushberry subgroup at 1.0 ppm, feijoa at 0.10 ppm, fruit, stone, group at 1.0 ppm, guava at 0.10 ppm, jaboticaba at 0.10 ppm, juneberry at 1.0 ppm, lingonberry at 1.0 ppm, longan at 0.30 ppm, lychee at 0.30 ppm, passionfruit at 0.10 ppm, pulasan at 0.30 ppm, rambutan at 0.30 ppm, salal at 1.0 ppm, spanish lime at 0.30 ppm, starfruit at 0.10 ppm, and wax jambu at 0.10 ppm.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of these actions. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of acerola at 0.10 ppm, bushberry subgroup at 1.0 ppm, feijoa at 0.10 ppm, fruit, stone, group at 1.0 ppm, guava at 0.10 ppm, jaboticaba at 0.10 ppm, juneberry at 1.0 ppm, lingonberry at 1.0 ppm, longan at 0.30 ppm, lychee at 0.30 ppm, passionfruit at 0.10 ppm, pulasan at 0.30 ppm, rambutan at 0.30 ppm, salal at 1.0 ppm, spanish lime at 0.30 ppm, starfruit at 0.10 ppm, and wax jambu at 0.10 ppm. EPA's assessment of exposures and risks associated with establishing these tolerances follow.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by pyriproxyfen is discussed in Unit III.A. of the Final Rule on Pyriproxyfen Pesticide Tolerance published in the **Federal Register** of June 5, 2001 (66 FR 30065) (FRL–6782–5). Additionally, toxicological studies to the toxicological profile for pyriproxyfen are shown below in Table 1:

TABLE 1.— SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity rodents-mouse	NOAEL = 149.4 mg/kg/day in males, 196.5 mg/kg/day in females LOAEL = 838.1 mg/kg/day in males, 963.9 mg/kg/day in females based on pathological changes in the kidney, increased absolute and relative (to body) liver weight, decreased red blood cell parameters (both sexes) and decreased body weight gain (M)
870.3265	28-Day inhalation toxicity-rat	NOAEL = 0.482 mg/L (males and females) LOAEL = 1.000 mg/L based on salivation (both sexes), sporadic decreased body weight (M), and increased lactate dehydrogenase (M)

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

Guideline No.	Study Type	Results
Non-guideline	Special study prenatal developmental in rodents-rats	Parental NOAEL = 100 mg/kg/day Parental LOAEL = 300 mg/kg/day based on clinical signs, decreased body weight gains, increased water consumption (both sexes) and increased food consumption, changes in organ weights, and gross pathological changes (M) Developmental NOAEL = 1,000 mg/kg/day (HDT)
Non-guideline	Special study prenatal developmental in rodents-rats	Maternal NOAEL = 100 mg/kg/day Maternal LOAEL = 300 mg/kg/day based on clinical signs, decreased body weight gains, and decreased food consumption Developmental NOAEL = 100 mg/kg/day Developmental LOAEL = 300 mg/kg/day based on decreased body weight and increased incidence of dilation of the renal pelvis
870.3800	Reproduction and fertility effects-rat	Parental/systemic NOAEL = 87 mg/kg/day in males, 96 mg/kg/day in females Parental/systemic LOAEL = 453 mg/kg/day in males, 498 mg/kg/day in females based on decreased body weight, body weight gain, and food consumption (both sexes) and increased liver weight (both sexes) and histopathological lesions of liver and kidneys (M) Reproductive NOAEL ≥453 mg/kg/day in males, 498 mg/kg/day in females Reproductive LOAEL = not established Offspring NOAEL = 87 mg/kg/day in males, 96 mg/kg/day in females Offspring LOAEL = 453 mg/kg/day in males, 498 mg/kg/day in females based on decreased body weight on lactation days 14 and 21
870.4300	Carcinogenicity mice	NOAEL = 84 mg/kg/day in males, 109.5 mg/kg/day in females LOAEL = 420 mg/kg/day in males. 547 mg/kg/day in females based on renal lesions in males and females No evidence of carcinogenicity
870.5265	Gene mutation	Non-mutagenic when tested up to 5,000 µg/plate or cytotoxic levels, in presence and absence of activation, in *S. typhimurium* strains TA98, TA100, TA1535 and TA1537 and *E.coli* strain WP2uvra with 2-OH-PY (metabolite of pyriproxyfen)
870.5265	Gene mutation	Non-mutagenic when tested up to 5,000 µg/plate or cytotoxic levels, in presence and absence of activation, in *S. typhimurium* strains TA98, TA100, TA1535 and TA1537 and *E.coli* strain WP2uvra with 4'-OH-PY, 5''-OH-PYR, DPH-PYR, POPA, and PYPAC (metabolites of pyriproxyfen)
870.5265	Gene mutation	Non-mutagenic when tested up to 5,000 µg/plate or cytotoxic levels, in presence and absence of activation, in *S. typhimurium* strains TA98, TA100, TA1535 and TA1537 and *E.coli* strain WP2uvra with 2,5-OH-PY (metabolite of pyriproxyfen)
870.5265	Gene mutation	Non-mutagenic when tested up to 5,000 µg/plate or cytotoxic levels, in presence and absence of activation, in *S. typhimurium* strains TA98, TA100, TA1535, TA1537, and TA1538 and *E.coli* strain WP2uvra with 2-OH-PY (pyriproxyfen technical)
870.5265	Gene mutation	Non-mutagenic at the HGPRT locus in Chinese hamster lung V79 cells tested up to cytotoxic concentrations or limit of solubility, in presence and absence of activation
870.5375	Chromosome aberration	Did not induce structural chromosome aberration in Chinese hamster ovary (CHO) cell cultures in the absence or presence of activation
870.5550	Unscheduled DNA synthesis	There was no evidence that unscheduled DNA synthesis, as determined by radioactive tracer procedures (nuclear silver grain counts) was induced in HeLa cells exposed up to cytotoxic levels, both in the presence or absence of S-9

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the

variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

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

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

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

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (females 13-50 years old and general population)	None	None	There were no effects observed in oral toxicity studies including developmental toxicity studies in rats and rabbits that could be attributable to a single dose (acute) exposure. Therefore, a dose and endpoint was not selected for this risk assessment.
Chronic dietary (all populations)	NOAEL= 35.1 mg/kg/day UF = 100 Chronic RfD = 0.35 mg/kg/day	FQPA SF = 1X cPAD = cRfD/FQPA SF = 0.35 mg/kg/day	Subchronic toxicity and chronic toxicity (feeding) - rat (co-critical) LOAEL = 141.28 mg/kg/day based on decreased body weight and clinical pathology results.
Short-term incidental, oral (1-30 days) Residential	Oral NOAEL = 100 mg/kg/day	LOC for MOE = 100	Rat developmental toxicity study LOAEL = 300 mg/kg/day based on decreased body weight, body weight gain, and food consumption, and increased water consumption
Intermediate-term incidental, oral (1-6 months) Residential	Oral NOAEL = 35.1 mg/kg/day	LOC for MOE = 100	Subchronic toxicity and chronic toxicity (feeding) - rat (co-critical) LOAEL = 141.28 mg/kg/day based on decreased body weight and clinical pathology results
Short-, and intermediate-term dermal (1-30 days and 1-6 months) (Residential)	None	None	Based on the systemic toxicity NOAEL of 1,000 mg/kg/day (limit dose) in the 21–day dermal toxicity study in rats, quantification of dermal risks were not performed. In addition, no developmental concerns (toxicity) were seen in either rats or rabbits.
Long-term dermal (6 months-lifetime) (Residential)	Oral NOAEL= 35.1 mg/kg/day (dermal absorption rate = 30%)	LOC for MOE = 100	Subchronic and chronic toxicity (feeding) - rat (co-critical) LOAEL = 141.28 mg/kg/day based decreased body weight and clinical pathology results

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Short-, and intermediate-term inhalation (1-30 days and 1-6 months) (Residential)	None	None	Based on the absence of significant toxicity at the LOAEL of 1.0 mg/L (limit dose) in the 28-day inhalation study, the quantification of inhalation risks is not required. In addition, no developmental concerns (toxicity) were seen in either rats or rabbits.
Long-term inhalation (6 months-lifetime) (Residential)	Oral study NOAEL = 35.1 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100	Subchronic and chronic toxicity (feeding) - rat (co-critical) LOAEL = 141.28 mg/kg/day based on decreased body weight and clinical pathology results
Cancer (oral, dermal, inhalation)	Cancer classification (''Group E'')	None	No evidence of carcinogenicity

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

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. Tolerances have been established (40 CFR 180.510) for the residues of pyriproxyfen, in or on a variety of raw agricultural commodities: Almond hulls at 2.0 ppm; apple, pomace, wet at 0.8 ppm; citrus fruits at 0.3 ppm; citrus oil at 20 ppm; citrus pulp, dried at 2.0 ppm; cotton, gin byproducts at 2.0 ppm; cottonseed at 0.05 ppm; fruiting vegetables (except cucurbits) at 0.2 ppm; pistachio at 0.02 ppm; pome fruits at 0.2 ppm; tree nuts at 0.02 ppm; and walnuts at 0.02 ppm). Section 18s have been established for bean, succulent at 0.10 ppm, and stone fruits at 0.1 ppm, and are currently set to expire on June 30, 2003, and December 31, 2002, respectively. There are no livestock feed items associated with stone fruits, guava, lychee, blueberry, or the related crops, thus the proposed uses will not result in the transfer of any additional pyriproxyfen residues to livestock. Risk assessments were conducted by EPA to assess dietary exposures from pyriproxyfen in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. An acute dietary exposure analysis was not conducted since no acute doses or endpoints were selected for the general U.S. population (including infants and children) or the females 13-50 years old population subgroup.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment, the Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic dietary exposure was performed using published and proposed tolerance levels, DEEM™ default processing factors, and 100% crop treated (CT) assumptions for all commodities.

iii. *Cancer*. Pyriproxyfen was classified by EPA (June 1995) as a ''Group E'' chemical-negative for carcinogenicity to humans-based on the absence of carcinogenicity in mice and rats.

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

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

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

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

total aggregate exposure to pyriproxyfen, they are further discussed in Unit III.E.

Pyriproxyfen is relatively long-lived in soil and water, with variable half-lives of approximately 2 weeks to 2 months. Pyriproxyfen is immobile, as indicated by the relative mobility scheme in Dragun (1998) for five soils and one sediment. The registrant determined the half-lives, 6.8 and 9 days, respectively, for the phenyl-label and pyridyl-label portions of pyriproxyfen. Since there is only one value, the longest half-life (9 days) was multiplied by 3 using the Agency's input guidance. Thus, the aerobic soil half-life in the modeling assessment was 27 days.

EPA determined that the residues of concern in water is pyriproxyfen per se. Drinking water estimates include surface water EECs based on the linked PRZM/EXAMS models and the SCI-GROW ground water regression model, which was developed from studies with different hydrology and study conditions. Both models assumed a maximum seasonal application rate of 0.11 lb ai/A, 3 times per year (citrus).

Based on the PRZM/EXAMS model the EECs of pyriproxyfen for surface water was estimated to be 2.15 parts per billion (ppb) for the peak concentration and 0.40 ppb for the long term average. Based on the SCI-GROW model, the EECs of pyriproxyfen for ground water was estimated to be 0.006 ppb for both the acute and chronic exposure.

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

Pyriproxyfen is currently registered for use on the following residential non-dietary sites: Residential sites for flea and tick control products (home environment and pet treatments) as well as products for ant and roach control (indoor and outdoor applications). Formulations include carpet powders, foggers, aerosol sprays, liquids (shampoos, sprays, and pipettes), granules, bait (indoor and outdoor), and impregnated materials (pet collars).

There is a potential for short-term dermal and inhalation exposures to pet owners and homeowners who apply products containing pyriproxyfen (handlers); however, EPA did not select short-term dermal or inhalation endpoints. Therefore, no residential pet owner/homeowner handler assessment is included. However, a post-application toddler residential assessment is included since toddlers are anticipated to have higher exposures than adults from treated home environments and pets due to their behavior patterns.

Toddlers could potentially be exposed to pyriproxyfen residues on treated carpets, floors, furniture, and pets. Therefore, risk assessment was conducted using the following residential exposure assumptions:

i. Hand-to-mouth: Short-, intermediate, and long-term hand-to-mouth exposures by toddlers from treated carpets, flooring (note the efficacy of carpet powders is approximately 365 days).

ii. Hand-to-mouth: Short- and intermediate-term hand-to-mouth exposures by toddlers from petting treated animals (shampoos, sprays, spot-on treatments and collars). Long-term hand-to-mouth exposures by toddlers from petting treated animals (pet collars; note efficacy of pet collars up to 395 days).

iii. Dermal: Long-term dermal exposures from treated carpets, flooring, and pets (note that treated furniture is included in the carpet/flooring assessment). Since the Agency did not select any short- or intermediate-term dermal endpoints, no dermal assessment for these durations is included. A long-term dermal assessment is included, since EPA selected a long-term dermal endpoint.

iv. Ingestion of granules or bait by toddlers (acute, episodic event). For the granular ingestion scenario, it should be noted that the Agency believes that if a toddler were to be exposed to a pellet/granular formulation (i.e., ant bait), the event is most likely to be ''episodic,'' that is, a one time occurrence and not likely to be repeated. It is not likely that a toddler would repeatedly locate and ingest very small, sand colored granules. For pyriproxyfen, EPA did not select an acute dietary endpoint, since an appropriate endpoint could not be attributed to a single oral dose; therefore, no granular assessment was performed.

Exposure and risk estimates from post-application exposure to indoor crack and crevice treatments are not presented in this assessment as indoor broadcast treatments (i.e., carpet powders and sprays) are anticipated to have a higher exposure potential. Additionally, the Agency acknowledges that pet owners could retreat the home environment and/or the pet near the end of the efficacy period identified on the product labels. However, there are no chemical-specific residue data for pyriproxyfen to determine the dissipation rate of residues or whether residues may be additive upon retreatment. Therefore, a Tier 1 assessment was performed based on day 0 residues without accounting for daily residue dissipation. EPA anticipates that this assessment is protective as pyriproxyfen residues would be expected to dissipate from day 0 residue values.

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. Based on the available data, there is no quantitative and qualitative evidence of increased susceptibility observed following *in utero* pyriproxyfen exposure to rats and rabbits or following prenatal/postnatal exposure in the 2–generation reproduction study.

3. *Conclusion*. There is a complete toxicity data base for pyriproxyfen and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be reduced to 1X because there was no evidence of prenatal or postnatal extra sensitivity or increased susceptibility in developmental studies in rats and rabbits, and in reproduction studies in rats. Likewise, there was no quantitative or qualitative evidence of increased susceptibility to rat or rabbit fetuses identified in the guideline prenatal developmental toxicity studies for rats and rabbits. Additionally, in the two non-guideline studies that evaluated perinatal and prenatal development, there was no evidence of quantitative or qualitative increased susceptibility. In one study, when pregnant rats were treated from gestation day 17 to lactation day 20, the resulting toxicity was comparable between adults (clinical signs, decreased body weight gain and food consumption) and offspring (decreased body weight and dilation of the renal pelvis) at the same dose. In the other study, when rats were exposed to pyriproxyfen prior to and in the early stages of pregnancy, no developmental toxicity was seen at the limit dose. Lastly, in the reproduction toxicity study, offspring toxicity (decreased body weight on pups during lactation days 14 to 21) occurred only in the presence of decreases in body weight in parental animals at the same dose level (i.e., comparable toxicity in adults and offspring).

E. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. An acute dietary RfD for females 13-50 and the general U.S. population, including infants and children, was not selected because an acute oral endpoint attributable to a single-dose exposure could not be identified in the toxicology data base, including maternal toxicity in the developmental toxicity studies.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to pyriproxyfen from food will utilize 1.0% of the cPAD for the U.S. population, 2.0% of the cPAD for all infants, and 2.7% of the cPAD for children 1-6 years old. Based on the use pattern, chronic residential exposure to residues of pyriproxyfen is not expected. In addition, there is potential for chronic dietary exposure to pyriproxyfen in drinking water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.35	1.0	0.40	0.006	12,000
All infants	0.35	2.0	0.40	0.006	3,200
Children (1-6 years old)	0.35	2.7	0.40	0.006	3,100
Females (13-50 years old)	0.35	0.7	0.40	0.006	10,000

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

Pyriproxyfen is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for pyriproxyfen.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 29,000 for the U.S. population, 1,800 for all infants (<1 year old), and 1,700 for children (1-6 years old). These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic

exposure of pyriproxyfen in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO PYRIPROXYFEN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
U.S. population	29,000	100	0.40	0.006	35,000
All infants (<1 year old)	1,800	100	0.40	0.006	9,500
Children (1-6 years old)	1,700	100	0.40	0.006	9,400
Females (13-50 years old)	41,000	100	0.40	0.006	30,000

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

Pyriproxyfen is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for pyriproxyfen.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 10,000 for the U.S. population, 650 for all infants (<1 year old), and 620 for children (1-6 years old). These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of pyriproxyfen in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO PYRIPROXYFEN

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
U.S. population	10,000	100	0.40	0.006	12,000
All infants (<1 year old)	650	100	0.40	0.006	3,000
Children (1-6 years old)	620	100	0.40	0.006	3,000
Females (13-50 years old)	14,000	100	0.4	0.006	10,000

5. *Aggregate cancer risk for U.S. population.* The chronic toxicity of pyriproxyfen is based on the assessment of a combination (co-critical) of the 90–day rat feeding study and the 2–year rat feeding study. There was no evidence of carcinogenicity in a 78–week mouse feeding study and a 2–year rat feeding study. Pyriproxyfen was classified as a ''Group E'' chemical (no evidence of carcinogenicity to humans) by the Agency on June 22, 1995, based on the absence of evidence of carcinogenicity in male and female rats as well as in male and female mice.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

In conjunction with the residue studies on guava, lychee, and blueberry, the petitioner submitted adequate concurrent recovery data for a gas chromatography/nitrogen-phosphorous detector (GC/NPD) method (RM-33P-1-3a) used to determine residues of pyriproxyfen in/on guava, lychee, and blueberry. The method has undergone an adequate radiovalidation, independent laboratory validation (ILV) trial, petition method validation (PMV) trial, and has been forwarded to the Food and Drug Administration (FDA) for inclusion in Pesticide Analytical Method (PAM) Vol. II. The GC/NPD method RM-33P-1-3a is adequate for enforcement of the recommended tolerance levels for residues of pyriproxyfen per se in/on guava, lychee, blueberry, and the related crops.

Adequate enforcement methodology (e.g., chromotography) is available to enforce the tolerance expression. The method may be requested from: Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, Environmental Protection Agency, 701 Mapes Road, Fort George G. Mead, MD 20755–5350; telephone number (410) 305–2905; griffith.francis@epa.gov.

B. International Residue Limits

There are no Codex, Canadian, or Mexican maximum residue limits for residues of pyriproxyfen in/on guava, lychee, blueberry, or the related crops; therefore, international harmonization is not an issue at this time.

V. Conclusion

Therefore, the tolerances are established for residues of pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy)ethoxypyridine, in or on acerola at 0.10 ppm, bushberry subgroup at 1.0 ppm, feijoa at 0.10 ppm, fruit, stone, group at 1.0 ppm, guava at 0.10 ppm, jaboticaba at 0.10 ppm, juneberry at 1.0 ppm, lingonberry at 1.0 ppm, longan at 0.30 ppm, lychee at 0.30 ppm, passionfruit at 0.10 ppm, pulasan at 0.30 ppm, rambutan at 0.30 ppm, salal at 1.0 ppm, spanish lime at 0.30 ppm, starfruit at 0.10 ppm, and wax jambu at 0.10 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0215 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 October 28, 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 (1900C), 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. 104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. 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 (703) 603–0061.

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

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

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP–2002–0215, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income*

Populations (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: August 15, 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 374.

2. Section 180.510 is amended by alphabetically adding the following commodities to the table in paragraph (a) to read as follows:

§ 180.510 Pyriproxyfen; tolerances for residues.

(a) * * *

Commodity	Parts per million
Acerola	0.10
* * * * *	
Bushberry subgroup	1.0
* * * * *	
Feijoa	0.10
* * * * *	
Fruit, stone, group	1.0
* * * * *	
Guava	0.10
Jaboticaba	0.10
Juneberry	1.0
Lingonberry	1.0
Logan	0.30
Lychee	0.30
Passionfruit	0.10
* * * * *	
Pulasan	0.30
Rambutan	0.30
Salal	1.0
Spanish lime	0.30
Starfruit	0.10

Commodity	Parts per million
* * * * *	
Wax jambu	0.10

* * * * *

[FR Doc. 02–21756 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL–7268–9]

South Carolina; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination on the State of South Carolina's application for final approval.

SUMMARY: The State of South Carolina has applied for final approval of its underground storage tank program for petroleum and hazardous substances under subtitle I of the Resource Conservation and Recovery Act (RCRA). The EPA has reviewed the State of South Carolina's application and has reached a final determination that South Carolina's underground storage tank program for petroleum and hazardous substances satisfies all of the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the State of South Carolina to operate its underground storage tank program for petroleum and hazardous substances.

EFFECTIVE DATE: Final approval for the State of South Carolina's underground storage tank program shall be effective on September 27, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. John K. Mason, Chief, Underground Storage Tank Section, U.S. EPA, Region 4, Sam Nunn Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303, phone number: (404) 562–9441.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of RCRA authorizes EPA to approve State underground storage tank programs to operate in the State in lieu of the Federal underground storage tank (UST) program. To qualify for final authorization, a State's program must: (1) be ''no less stringent'' than the Federal program for the seven elements set forth at RCRA section 9004(a)(1) through (7); and (2) provide for adequate enforcement of compliance with UST standards of RCRA section 9004(a). Note that RCRA sections 9005 (on information-gathering) and 9006 (on Federal enforcement) by their terms apply even in States with programs approved by EPA under RCRA section 9004. Thus, EPA retains its authority under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved States. With respect to such an enforcement action, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State authorized analogues to these provisions.

On January 7, 1999, the State of South Carolina submitted an official application to obtain final program approval to administer the underground storage tank program for petroleum and hazardous substances. On January 29, 2002, EPA published a tentative decision announcing its intent to grant South Carolina final approval. Further background on the tentative decision to grant approval appears at 67 FR 4225, January 29, 2002.

Along with the tentative determination, EPA announced the availability of the application for public comment and the date of a public hearing on the application. EPA requested advance notice for testimony and reserved the right to cancel the public hearing for lack of public interest. Since there was no public request, the public hearing was cancelled. No public comments were received regarding EPA's approval of South Carolina's underground storage tank program.

The State of South Carolina is not approved to operate the underground storage tank program in Indian Country within the State's borders.

B. Decision

I conclude that the State of South Carolina's application for final program approval meets all of the statutory and regulatory requirements established by subtitle I of RCRA. Accordingly, South Carolina is granted final approval to operate its underground storage tank program for petroleum and hazardous substances. The State of South Carolina now has responsibility for managing all regulated underground storage tank facilities within its borders and carrying out all aspects of the underground storage tank program except with regard to Indian Country, where the EPA will retain regulatory authority. South Carolina also has primary enforcement responsibility, although EPA retains the right to conduct enforcement actions under section 9006 of RCRA.

C. Administrative Requirements

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for

State, local or tribal governments or the private sector. The UMRA generally excludes from the definition of ''Federal intergovernmental mandate'' duties that arise from participation in a voluntary Federal program. South Carolina's participation in EPA's State program approval process under RCRA Subtitle I is voluntary. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may own and/or operate underground storage tanks, they are already subject to the regulatory requirements under the existing State requirements that EPA is now approving and, thus, are not subject to any additional significant or unique requirements by virtue of this action. Thus, the requirements of section 203 of the UMRA also do not apply to today's rule.

Regulatory Flexibility Act (RFA) (as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that own and/or operate underground storage tanks are already subject to the State underground storage tank requirements which EPA is now approving. This action merely approves for the purpose of RCRA section 9004 those existing State requirements.

Submission to Congress and the Comptroller General

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

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

Compliance With Executive Order 13045 (Children's Health)

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a State program.

Compliance With Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

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

This rule does not have Tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. South Carolina is not approved to implement the RCRA underground storage tank program in Indian Country. This action has no effect on the underground storage tank program that EPA implements in the Indian Country within the State. Thus, Executive Order 13175 does not apply to this rule.

Compliance With Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local Officials in the development of regulatory policies that have Federalism implications.'' ''Policies that have Federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local Governments, or EPA consults with State and local Officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has Federalism implications and that preempts state law unless the Agency consults with State and local Officials early in the process of developing the proposed regulation.

This action does not have Federalism implications. It 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, because it affects only one State. This action simply provides EPA approval of South Carolina's voluntary proposal for its State underground storage tank program to operate in lieu of the Federal underground storage tank program in that State. Thus, the requirements of section 6 of the Executive Order do not apply.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, § 12(d) (15 U.S.C. 272) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Executive Order 13211 (Energy Effects)

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

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous substances, Intergovernmental relations.

Authority: This rule is issued under the authority of Section 9004 of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6974(b), 6991c.

Dated: August 13, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–21938 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 71, 115, 126, 167, 169 and 176

[USCG–2000–6858]

RIN 2115–AF95

Alternate Hull Examination Program for Certain Passenger Vessels, and Underwater Surveys for Nautical School, Offshore Supply, Passenger and Sailing School Vessels

AGENCY: Coast Guard, DOT.

ACTION: Interim rule; announcement of effective date.

SUMMARY: Coast Guard is announcing the approval of a collection-of-information requirement for vessel owners or operators to send applications, hull exam reports, hull condition assessments, and preventive maintenance plans to the Coast Guard in order to participate in the Alternative Hull Exam and UWILD Programs.

DATES: 46 CFR 71.50–5(b), 71.50–23(b), 71.50–29(b), 71.50–31(b), 71.50–31(c), and 71.50–31(d)(1); 115.615(b), 115.630, 115.640(b), 115.655(a), 115.655(b), 115.660(c), and 115.660(d); 126.140(f), 126.140(g)(1), and 126.140(g)(3); 176.615(c), 176.615(c), 176.630, 176.640(b), 176.655(a), 176.660(b), 176.660(c), and 176.660(d)(1); as published April 29, 2002 (67 FR 21062), are effective August 28, 2002.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call Don Darcy, Office of Standards Evaluation and Development (G–MSR), Coast Guard, at 202–267–1200. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: The interim rule published in the **Federal Register** on April 29, 2002, at 67 FR 21062 became effective on June 28, 2002, except for revised 46 CFR 71.50–5(b), 71.50–23(b), 71.50–29(b), 71.50–31(b), 71.50–31(c), and 71.50–31(d)(1); 115.615(b), 115.630, 115.640(b), 115.655(a), 115.655(b), 115.660(c), and 115.660(d); 126.140(f), 126.140(g)(1), and 126.140(g)(3); 167.15–33(b) and 167.15–33(c); 169.230(b) and 169.230(c); 176.615(b), 176.615(c), 176.630, 176.640(b), 176.655(a), 176.660(b), 176.660(c), and 176.660(d)(1). These parts contained collection-of-information requirements. These parts could not become effective until its collection-of-information requirement was approved by the Office of Management and Budget (OMB). Those parts were approved by OMB in control no. 2115–0133 on June 24, 2002, and are effective August 28, 2002.

Dated: August 23, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security & Environmental Protection.

[FR Doc. 02–21983 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350 and 392

[Docket No. FMCSA–2002–13015]

RIN 2126–AA78

Registration Enforcement

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Interim final rule (IFR); request for comments.

SUMMARY: The FMCSA amends its regulations to require that a motor carrier subject to the registration requirements under 49 U.S.C. 13902 may not operate a commercial motor vehicle in interstate commerce unless it has registered with this agency. These motor carriers are further prohibited from operating beyond the scope of their registration. If an unregistered carrier's motor vehicle is discovered in operation or being operated beyond the scope of the carrier's registration, such motor vehicle will be placed out of service and the carrier may be subject to additional penalties. The States are currently required to enforce these registration requirements as a condition for receipt of Motor Carrier Safety Assistance Program funds. Amending the Federal Motor Carrier Safety Regulations (FMCSRs) to specifically include the out-of-service (OOS) provisions will help ensure that all carriers subject to 49 U.S.C. 13902 are apprised of and comply with applicable FMCSR's, operate only within the scope of registration, and operate safe vehicles within the United States. Benefits to the agency include the ability to more

accurately identify and monitor the safety fitness of motor carriers.

DATES: This interim final rule is effective September 27, 2002. FMCSA must receive comments by October 28, 2002.

ADDRESSES: You can mail, fax, hand deliver or electronically submit written comments to the Docket Management Facility, United States Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001 FAX (202) 493–2251, on-line at *http://dms.dot.gov/submit.* You must include the docket number that appears in the heading of this document in your comment. You can examine and copy all comments at the above address from 9 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays. You can also view all comments or download an electronic copy of this document from the DOT Docket Management System (DMS) at *http://dms.dot.gov/search.htm* and typing the last four digits of the docket number appearing at the heading of this document. The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Comments received after the comment closing date will be included in the docket and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Minor, (202) 366–4009, FMCSA, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Currently, a carrier desiring to operate in interstate commerce must submit to FMCSA a Motor Carrier Identification Report (Form MCS–150). Additionally, for-hire applicants who are subject to 49 U.S.C. 13902 must apply for appropriate operating authority and make the necessary administrative filings as required by the ICC Termination Act of 1995 (ICCTA) [Pub. L. 104–88, 109 Stat. 803 (1995)].

Effective January 1, 2003, the agency will initiate its New Entrant Safety Assurance Process for all applicants to operate in interstate commerce. FMCSA announced this initiative in an interim final rule published in the May 13, 2002, **Federal Reigster** (67 FR 31978). Under the new entrant initiative, an applicant must additionally file a Safety Certification for Applications for U.S. DOT Number (Form MCS–150A) with the MCS–150 and the application for operating authority (if applicable).The applicant will be provided educational and technical assistance material to assist in complying with the FMCSRs and applicable Hazardous Materials Regulations (HMRs), and must certify that he/she is knowledgeable about, and will comply with, these regulations. This will help ensure that the carrier is knowledgeable about applicable Federal motor carrier safety standards before being granted ''new entrant registration'' that will continue for a minimum of 18 months. During the 18-month period, FMCSA will evaluate the new entrant's safety management practices through a safety audit and monitor its on-road performance prior to granting the new entrant permanent registration.

Once granted permanent registration, carriers continue to be subject to all Federal Motor Carrier Safety Regulations (FMCSRs) and operating requirements. Although the FMCSA makes every effort to help carriers comply with the FMCSRs and operating requirements, when necessary, the agency may apply a full range of enforcement actions to non-complying carriers. These include, but are not limited to, compliance reviews, civil penalties, and revocation of registration for serious safety violations.

On December 9, 1999, the President signed into law the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106–159, 113 Stat. 1748) (MCSIA). Section 205 of MCSIA, which amended 49 U.S.C. 13902 by creating subsection (e), requires the agency to assess penalties for failure to comply with motor carrier registration requirements under 49 U.S.C. 13902. Specifically, if a motor carrier fails to register its operations or operates beyond the scope of its registration, the carrier would be subject to certain enforcement penalties. If, upon inspection or investigation, it is determined that a motor vehicle providing transportation requiring registration is operating without the carrier having registered with the agency or if that vehicle is being operated beyond the scope of such registration, the vehicle will not be allowed to continue to operate and will be placed out-of-service. The violating motor carrier may be subject to additional enforcement penalties. This interim final rule sets forth implementing regulations for section 205 of MCSIA.

State Enforcement of Registration Requirements

Although FMCSA officials routinely conduct vehicle inspections at a carrier's place of business, agency employees are not authorized to stop commercial motor vehicles along the nation's highways to subject them to inspection. Instead, Federal officials partner with State personnel who are responsible for enforcing highway safety to compel selected commercial motor vehicles and their operators to undergo roadside inspections. Enforcement of the provisions in this interim final rule depends largely upon the ability to detect violators ''in the act'' along our nation's highways, and we will continue to rely largely upon assistance from State enforcement personnel.

The FMCSA administers a grant-in-aid program, the Motor Carrier Safety Assistance Program (MCSAP), as an incentive for State enforcement of motor carrier safety regulations. The MCSAP was first authorized in the Surface Transportation Assistance Act of 1982 (STAA)(Pub. L. 97–424, 96 Stat. 2079, 2154), reauthorized in the Commercial Motor Vehicle Safety Act of 1986 (Pub. L. 99–570, 100 Stat. 3207, 3207–186), in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (49 U.S.C. 31101–31104, as amended), and again in the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107). The original authorization contained certain eligibility requirements for financial assistance, including agreement to adopt and enforce safety regulations compatible with the FMCSRs and HMRs. The regulatory compatibility requirement remains today and ensures a permanent and consistent enforcement and safety presence throughout the nation. This interim final rule will make enforcement of the registration requirements a condition for continued eligibility for MCSAP funds.

Section 207 of the MCSIA amended 49 U.S.C. 31102(b)(1) by inserting new subparagraph (R), adding as a requirement of MCSAP participation, the ''cooperation'' of the States in the enforcement of registration requirements under 49 U.S.C. 13902 and the financial responsibility requirements of the Department. Subsequently, on March 21, 2000, the FMCSA revised the regulations for MCSAP participation (65 FR 15102). Those regulations required the States to enforce the registration and financial responsibility requirements.

All States are required, as a condition of receiving MCSAP funding (49 CFR 350.201), to adopt the FMCSRs

contained in 49 CFR parts 390–397, as applicable. Adoption of the changes to 49 CFR 350.201(t), added the registration and insurance requirements found in 49 CFR parts 365 and 387. In a June 2001 policy statement, FMCSA guidance to the States interpreted the term ''cooperation,'' as used in section 207 of MCSIA, to merely require State enforcement to the extent each State's legislature authorized enforcement of the Federal registration and insurance requirements. The States could confirm their cooperation by certifying (in their MCSAP commercial vehicle safety plan) the following: ''(t)he State of XXX will cooperate with the FMCSA, to the extent permissible by State law, in the enforcement of Federal requirements pertaining to registration and financial responsibility.'' In order to restrict commercial highway transportation to those entities having the appropriate operating authority and possessing adequate insurance, we are now broadening our interpretation of the term ''cooperation'' found in section 207 of the MCSIA to specifically include placing out of service any vehicles discovered operating without 13902 registration or operating beyond the scope of their registration. As to the financial responsibility requirements in 49 CFR 350.201(t), the States must now take enforcement by assessing appropriate State penalties. We believe this expansion of our June 2001 policy statement is necessary in light of the heightened security environment in which we all live. Our previous policy statement could allow unregistered or improperly registered vehicles to travel our nation's highways unchecked. Given FMCSA's mission of ensuring safe transportation, it is incumbent upon the agency to close this potential loophole.

The FMCSA has also included 49 CFR part 365 (Rules Governing Applications for Operating Authority) to 49 CFR 350.201(t) as a condition of MCSAP funding. States are expected to notify the FMCSA when they have information on the fitness of an applicant for authority.

Regulatory Change

We believe that the registration requirements in this IFR are important to ensure that carriers are apprised of and compliant with applicable motor carrier safety standards.

We are adding new § 392.9a to require that a motor vehicle providing transportation requiring registration under 49 U.S.C. 13902 may not be operated unless the carrier has complied with registration requirements. Nor may a driver operate a motor vehicle providing transportation that requires section 13902 registration beyond the scope of that registration. For example, a motor carrier must register with the FMCSA to transport property in interstate commerce for hire. If Carrier A fails to register pursuant to section 13902, but is later discovered hauling appliances in a commercial motor vehicle for a department store from one State to another, under § 392.9a(b) Carrier A's CMV would be placed out of service and Carrier A may be subject to additional penalties. In another scenario, Carrier B registers to transport property for hire, but is later discovered operating a commuter bus service for a municipality using 49-passenger buses, the bus would be subject to an out-of-service order and the carrier may be subject to penalties.

In the second scenario in the preceding paragraph, Carrier B applied for and obtained authority to transport property for-hire. Carrier B met the registration requirements and his/her drivers are qualified to operate a truck, but Carrier B's drivers may know nothing at all about passenger transportation safety and are not qualified to transport passengers. Because Carrier B is registered with FMCSA, the chances of detecting Carrier B's illegal operations are much greater.

But in scenario one where Carrier A decides to go into business hauling furniture for a department store but fails to register with FMCSA, the agency would not even be aware of its existence unless one of the carrier's vehicles were stopped for roadside inspection. Because the carrier is not registered with the agency at all, that carrier would not be targeted for a compliance review. Roadside inspections would be the only means of detecting errant Carrier A.

Any vehicles found to be operating in violation of § 392.9a would be placed out-of-service, immediately prohibiting the driver from further operation. Furthermore, the motor carrier may be subject to further penalties under 49 U.S.C. 14901. The motor carrier would be entitled to a hearing to review the out-of-service order pursuant to 5 U.S.C. 554 within 10 days of the issuance of the order.

This rulemaking will become effective thirty days after publication because of the need to close a potential loophole that may be used to circumvent FMCSA's safety regulations. Given the heightened security environment, the time needed to complete notice and comment procedures prior to issuing an enforceable standard lengthens the time that individuals could exploit this loophole. FMCSA has asked for comment with publication of the rule, and will consider all comments received shortly thereafter. If changes to the rule are necessary to address this issue more effectively, or in a less burdensome but equally effective manner, FMCSA will not hesitate to make such changes. The Administrator for FMCSA believes that the circumstances described herein warrant quick action, and finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866. Accordingly, the Office of Management and Budget reviewed this regulatory action. In addition, this action is significant within the meaning of Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). It is anticipated that the economic impact of the revisions in this rulemaking will be minimal.

Economic Analysis

This rulemaking has been reviewed by the Office of Management and Budget. It is significant within the meaning of the Executive Order and DOT's policies and procedures. Because of the potential security threat and the need to act quickly, no regulatory analysis or evaluation accompanies this rule. This rule may, however, impose some costs. FMCSA will assess the costs and benefits of the rule as soon as possible and will include the analysis in the docket of this matter.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement and Fairness Act (Pub. L. 104–121), requires Federal agencies to analyze the impact of rulemakings on small entities, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Therefore, FMCSA certifies that this rule will not have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; 2 U.S.C. 1532) requires each agency to assess the effects of its regulatory actions on State, local, and tribal governments and the

private sector. Any agency promulgating a final rule likely to result in a Federal mandate requiring expenditures by a State, local, or tribal government or by the private sector of $100 million or more in any one year must prepare a written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. FMCSA has determined that the changes proposed in this rulemaking would not have an impact of $100 million or more in any one year.

Executive Order 13045 (Protection of Children)

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (April 23, 1997, 62 FR 19885), requires that agencies issuing ''economically significant'' rules that also concern an environmental health or safety risk that an agency has reason to believe may disproportionately affect children must include an evaluation of the environmental health and safety effects of the regulation on children. Section 5 of Executive Order 13045 directs an agency to submit for a ''covered regulatory action'' an evaluation of its environmental health or safety effects on children. The agency has determined that this rule is not a ''covered regulatory action'' as defined under Executive Order 13045.

This rule is not economically significant under Executive Order 12866 because the FMCSA has determined that the changes in this rulemaking would not have an impact of $100 million or more in any one year. This rule also does not concern an environmental health risk or safety risk that would disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This 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.

Executive Order 13132 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999 (64 FR 43255, August 10, 1999). FMCSA has determined that this action would not have significant Federalism implications or limit the policymaking discretion of the States.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) [44 U.S.C. 3501–3520], Federal agencies must determine whether requirements contained in rulemakings are subject to information collection provisions of the PRA and, if they are, obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor or require through regulations. FMCSA has determined that this regulation does not constitute an information collection within the scope or meaning of the PRA.

National Environmental Policy Act

The Federal Motor Carrier Safety Administration (FMCSA) is a new administration within the Department of Transportation (DOT). The FMCSA analyzed this rule under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA), the Council on Environmental Quality Regulations Implementing NEPA (40 CFR 1500–1508), and DOT Order 5610.1C, Procedures for Considering Environmental Impacts. This rule would be categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under paragraph 4.c.(3) of DOT's Order as a project amendment that does not significantly alter the environmental impact of the action. This rule would merely amend the Federal registration program to allow States and State law enforcement personnel to enforce the Federal registration requirements (49 U.S.C. 13902) by placing motor carriers out-of-service along our nation's highways for operating beyond the scope of their registration authority.

List of Subjects

49 CFR Part 350

Grant programs—transportation, Highway safety, Motor carriers.

49 CFR Part 392

Highway safety, motor carriers.

For the reasons stated in the preamble, the FMCSA amends title 49, Code of Federal Regulations, Chapter III, as follows:

PART 350—COMMERCIAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM [AMENDED]

1. Revise the authority citation for part 350 to read as follows:

Authority: 49 U.S.C. 13902, 31100–31104, 31108, 31136, 31140–31141, 31161, 31310–31311, 31502; and 49 CFR 1.73.

2. Amend § 350.201 to revise paragraph (t) to read as follows:

§ 350.201 What conditions must a State meet to qualify for Basic Program Funds?

* * *

(t)(1) Enforce registration requirements under 49 U.S.C. 13902, and 49 CFR parts 356 and 365, and 49 CFR 392.9a by placing out-of-service the vehicle discovered to be operating without registration or beyond the scope of its registration.

(2) Enforce financial responsibility requirements under 49 U.S.C. 13906, 31138, 31139, and 49 CFR part 387.

* * * * *

PART 392—DRIVING OF COMMERCIAL MOTOR VEHICLES [AMENDED]

3. Revise the authority citation for part 392 to read as follows:

Authority: 49 U.S.C. 13902, 31136, 31502; and 49 CFR 1.73.

4. Add a new § 392.9a to read as follows:

§ 392.9a Operating authority.

(a) *Registration required.* A motor vehicle providing transportation requiring registration under 49 U.S.C. 13902 may not be operated without the required registration or operated beyond the scope of its registration.

(b) *Penalties.* Every motor vehicle providing transportation requiring registration under 49 U.S.C. 13902 shall be ordered out-of-service if determined to be operating without registration or beyond the scope of its registration. In addition, the motor carrier may be subject to penalties in accordance with 49 U.S.C. 14901.

(c) *Administrative Review.* Upon the issuance of the out-of-service order under paragraph (b) of this section, the driver shall comply immediately with such order. Opportunity for review shall be provided in accordance with section 554 of title 5, United States Code not later than 10 days after issuance of such order.

Issued on: August 22, 2002.

Joseph M. Clapp,

Administrator.

[FR Doc. 02–21917 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1135 and 1137

[STB Ex Parte No. 637]

Removal and Revision of Regulations

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rules.

SUMMARY: The Surface Transportation Board (Board) is revising its regulations concerning rail cost recovery procedures to reflect changes made by the ICC Termination Act of 1995, (ICCTA). The Board is also removing the regulations concerning expeditious procedures for publication of separate rates for distinct services, because the statutory basis for these regulations was eliminated by the ICCTA.

EFFECTIVE DATE: These rules are effective September 27, 2002.

FOR FURTHER INFORMATION CONTACT: John Sado, (202) 565–1661. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Section 203 of the Staggers Rail Act of 1980, codified at former 49 U.S.C. 10707a (1995), required the Interstate Commerce Commission (ICC) to publish a rail cost adjustment factor (RCAF) on at least a quarterly basis. The RCAF is an index intended to reflect the impact of inflation. Former section 10707a established a mechanism by which rail rates could be changed quickly to reflect changes in rail costs based on the RCAF while largely being insulated from shipper protest.[1] The ICC issued regulations, currently found at 49 CFR part 1135, implementing the statute.

Under the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (1995) (ICCTA), former section 10707a has been removed, although under new 49 U.S.C. 10708, the Board must still publish an RCAF at least quarterly. The ICCTA eliminated, however, the provisions of former section 10707a that allowed carriers to take increases based on the RCAF with limited rights of shipper challenge. Accordingly, we are revising the regulations in part 1135 to remove references to rate increases based on the RCAF.

We are also removing section 1137.2, concerning expeditious procedures for publishing separate rates for distinct services. These rules were based on former section 15(18) of the Interstate Commerce Act, enacted in the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) and subsequently recodified at 49 U.S.C. 10728. Section 10728 was repealed by the ICCTA. At this time, we are not revising the regulations at 49 CFR 1137.1 involving divisions of revenues. This section was also issued in response to the enactment of the 4R Act. We will examine this regulation in a separate proceeding.

Because these changes remove and revise obsolete regulations based on statutory provisions that have been eliminated, we find good cause to dispense with notice and comment. *See* 5 U.S.C. 553(b)(B).

Copies of the decision may be purchased from Da–2–Da Legal Copy Service by calling 202–293–7776 (assistance for the hearing impaired is available through Federal Information Relay Service (FIRS) at 1–800–877–8339) or visiting Suite 405, 1925 K Street, NW., Washington, DC 20006.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR 1135

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

49 CFR Part 1137

Administrative practice and procedure, Railroads.

Decided: August 21, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, part 1135 and 1137, of title 49, chapter X, of the Code of Federal Regulations are amended as follows:

PART 1135—RAIL COST ADJUSTMENT FACTOR

1. The authority citation for part 1135 continues to read as follows:

Authority: 5 U.S.C. 553 and 49 U.S.C. 721 and 10708.

§ 1135.1 [Revised]

2. Revise § 1135.1 to read as follows:

§ 1135.1 Quarterly adjustment.

To enable the Board to publish the rail cost adjustment factor (RCAF) as required by 49 U.S.C. 10708, the Association of American Railroads (AAR) shall calculate and file with the Board by the fifth day of December, March, June and September of each year its forecast for the next calendar quarter of the all-inclusive index of railroad costs and calculate and file the RCAF unadjusted for changes in railroad productivity as prescribed in *Railroad Cost Recovery Procedures,* 1 I.C.C.2d 207 (1984), and any subsequent amendments thereto. In addition, the AAR shall calculate the productivity-adjusted RCAF as prescribed in *Railroad Cost Recovery Procedures,* 5 I.C.C.2d 434 (1989), and any subsequent amendments thereto. The AAR shall submit workpapers detailing its calculations. The Board will review and verify the AAR submissions and make its RCAF publication by the twentieth day of December, March, June and September of each year.

3. The authority citation for Part 1137 continues to read as follows:

Authority: 49 U.S.C. 721, 10705.

§ 1137.2 [Removed]

4. § 1137.2 is removed.

[FR Doc. 02–21767 Filed 8–27–02; 8:45 am]

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[1] In general, under former section 10707a(b), tariff rates that did not exceed a current quarter's maximum RCAF rate level could not be found to be unreasonable. The statute also provided a zone of rate freedom (ZORF) that allowed carriers to take increases above the RCAF index. The ICC could not investigate or suspend ZORF increases, but shippers were allowed to file complaints challenging these increases.

DEPARTMENT OF COMMERCE

National Oceanic and Atomospheric Administration

50 CFR Parts 600 and 660

[Docket No. 011231309–2090–03; I.D. 062702C]

Magnuson-Stevens Act Provisions; Fisheries off the West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Groundfish Fishery Management Measures; Correction

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

ACTION: Correction to trip limit adjustments in the Pacific Coast groundfish fishery.

SUMMARY: This document contains corrections to the trip limit adjustments published on July 5, 2002, for the Pacific Coast groundfish fishery, and to the limited entry trawl trip limit table for Pacific Ocean perch, widow rockfish, yellowtail rockfish, and whiting.

DATES: Effective 0001 hours local time August 28, 2002, through the effective

date of the 2003 specifications and management measures, unless modified, superceded, or rescinded through a publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jamie Goen (NMFS, Northwest Region), 206–526–6140.

SUPPLEMENTARY INFORMATION:

The specifications and management measures for the current fishing year (January 1—December 31, 2002) were initially published in the **Federal Register** as an emergency rule for January 1 - February 28, 2002 (67 FR 1540, January 11, 2002), as a proposed rule for all of 2002 (67 FR 1555, January 11, 2002), and as a final rule effective March 1, 2002 (67 FR 10490, March 7, 2002). The final rule was subsequently amended at 67 FR 15338, April 1, 2002; at 67 FR 18117, April 15, 2002; at 67 FR 30604, May 7, 2002; at 67 FR 40870, June 14, 2002; at 67 FR 44778, July 5, 2002; at 67 FR 48571, July 25, 2002; and at 67 FR 50835, August 6, 2002.

Trip limit adjustments published on July 5, 2002, contained technical errors and errors in the limited entry trawl trip limit table that require correction. The limited entry trawl trip limit table is corrected to close Pacific Ocean perch north of 40°10′ N. latitude (lat.) on September 1, 2002, as scheduled for all trawl fisheries north of 40°10′ N. lat. The whiting footnote for the ''per trip'' limit inside 100 fathoms in the Eureka area is also corrected to reflect the trawl closure north of 40°10′ N. lat. on September 1, 2002. At its June 17–21, 2002, meeting, the Pacific Fishery Management Council decided to close trawl fisheries north of 40°10′ N. lat. to protect several overfished species, including darkblotched rockfish. In addition, mid-water trawl limits for widow rockfish and yellowtail rockfish north of 40°10′ N. lat. are corrected to close on September 1, 2002. (Widow and yellowtail rockfish commonly co-occur with Pacific whiting). As a result, the mid-water trawl trip limits for widow and yellowtail rockfish were put in place to accommodate interception of these species by vessels fishing for whiting during the whiting primary season. Therefore, the widow and yellowtail rockfish mid-water trawl fisheries were essentially closed when the whiting primary season ended on July 17, 2002 (67 FR 47470, July 19, 2002). This document corrects the errors and re-publishes the limited entry trawl trip limit table.

Corrections

In the rule FR Doc. 02–16811, in the issue of Friday, July 5, 2002 (67 FR 444778) make the following corrections:

1. On page 44781, in column 2, under NMFS Actions, the amendatory paragraph No. 1. is corrected to read as follows:

''1. On page 10511, in column 1, in section IV. under A. General Definitions and Provisions, paragraph 6(d) is revised to read as follows:''

2. On pages 44782—44783, Table 3 is corrected to read as follows:

BILLING CODE 3510–22–S

Table 3. Trip Limits[1] and Gear Requirements[2] for Limited Entry Trawl Gear
Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	NOTE FOR **NORTH OF 40°10' N. LAT: AS OF JULY 1, 2002, ALL TRAWLING WITH LARGE FOOTROPE GEAR IS **PROHIBITED[5]**. **NOTE FOR **SOUTH** OF 40°10' N. LAT: AS OF JULY 1, 2002, ALL TRAWLING FOR GROUNDFISH IS **CLOSED** EXCEPT FOR DTS COMPLEX, SLOPE ROCKFISH SPECIES, AND SPECIFIED FLATFISH AND GRENADIER TAKEN INCIDENTALLY IN THOSE FISHERIES.						
1	**Minor slope rockfish**						
2	North	1,800 lb/ 2 months				CLOSED[7]	
3	South						
4	40°10' - 36° N. lat.	50,000 lb/ 2 months		5,000 lb/ 2 months		1,800 lb / 2 months	
5	South of 36° N. lat.	50,000 lb/ 2 months				15,000 lb/ 2 months	
6	**Splitnose - South**						
7	40°10' - 36° N. lat.	25,000 lb/ 2 months		5,000 lb/ 2 months		1,800 lb / 2 months	
8	South of 36° N. lat.	25,000 lb/ 2 months				15,000 lb/ 2 months	
9	**Pacific ocean perch - North[6]**	2,000 lb/ month		4,000 lb/ month	4,000 lb/ 2 months	CLOSED[7]	
10	**Chilipepper - South[6]**						
11	mid-water trawl	25,000 lb/ 2 months			CLOSED[7]		
12	small footrope trawl	7,500 lb/ 2 months		4,000 lb/ 2 months			
13	large footrope trawl	500 lb/ trip, not to exceed small footrope cumulative 2-month limits at any time during the year					
14	**DTS complex - North**						
15	Sablefish	6,000 lb/ 2 months		3,500 lb/ 2 months	3,000 lb/ 2 months	CLOSED[7]	
16	Longspine thornyhead	10,000 lb/ 2 months		6,000 lb/ 2 months	1,500 lb/ 2 months		
17	Shortspine thornyhead	2,600 lb/ 2 months		2,000 lb/ 2 months	1,500 lb/ 2 months		
18	Dover sole	30,000 lb/ 2 months	28,000 lb/ 2 months	14,000 lb/ 2 months			
19	**DTS complex - South**						
20	Sablefish[9]	4,500 lb/ 2 months					
21	Longspine thornyhead	10,000 lb/ 2 months					
22	Shortspine thornyhead	2,600 lb/ 2 months					
23	Dover sole	22,000 lb/ 2 months					
24	**Flatfish - North**						
25	All other flatfish [3]	LARGE FOOTROPE: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits, includes arrowtooth flounder.		LARGE FOOTROPE: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits. Retention of **petrale and rex sole** prohibited if large footrope gear is onboard.	SMALL FOOTROPE REQUIRED: 40,000 lb/ month, no more than 15,000 of which may be petrale sole	CLOSED[7]	
		SMALL FOOTROPE: 15,000 lb/ month	35,000 lb/ month	SMALL FOOTROPE: 30,000 lb/ month, no more than 10,000 of which may be petrale sole		CLOSED[7]	
26	Petrale sole	Not limited, large footrope allowed					
27	Rex sole						
28	Arrowtooth flounder	LARGE FOOTROPE: included in "all other flatfish" limit.		SMALL FOOTROPE REQUIRED: 7,500 lb/ trip, no more than 30,000 lb/ month; large footrope prohibited		CLOSED[7]	
		SMALL FOOTROPE: 30,000 lb/ trip					
29	**Flatfish - South**						
30	All other flatfish [3]	LARGE FOOTROPE: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits, includes arrowtooth flounder.		LARGE FOOTROPE: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits. Retention of **petrale and rex sole** prohibited if large footrope gear is onboard.	CLOSED[7] With the exception of 1,000 lb/ trip of rex sole, petrale sole, English sole, and arrowtooth flounder combined when landed with DTS complex. The amount of per trip flatfish landings must not exceed the amount of DTS landed. Landings can be made with small or large footrope gear.		
		SMALL FOOTROPE: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs.		SMALL FOOTROPE: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs. Of the species other than Pacific sanddabs, no more than 15,000 lb may be petrale sole.			
31	Petrale sole	Not limited, large footrope allowed					
32	Rex sole						
33	Arrowtooth flounder	LARGE FOOTROPE: included in "all other flatfish" limit.		SMALL FOOTROPE REQUIRED: 7,500 lb/ trip, no more than 30,000 lb/ month; large footrope prohibited			
		SMALL FOOTROPE: 30,000 lb/ trip					
35	**Whiting [4]**	20,000 lb/ trip		Primary Season		CLOSED[7]	

Table 3. (CONTINUED) Trip Limits[1/] and Gear Requirements[2/] for Limited Entry Trawl Gear
Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	NOTE FOR **NORTH OF 40°10' N. LAT: AS OF JULY 1, 2002, ALL TRAWLING WITH LARGE FOOTROPE GEAR IS **PROHIBITED**[5/]. **NOTE FOR **SOUTH** OF 40°10' N. LAT: AS OF JULY 1, 2002, ALL TRAWLING FOR GROUNDFISH IS **CLOSED** EXCEPT FOR DTS COMPLEX, SLOPE ROCKFISH SPECIES, AND SPECIFIED FLATFISH AND GRENADIER TAKEN INCIDENTALLY IN THOSE FISHERIES.						
37	**Minor shelf rockfish**						
38	North	300 lb/ month		1,000 lb/ month, no more than 300 lb of which may be yelloweye rockfish		CLOSED[7/]	
39	South	500 lb/ month		1,000 lb/ month, no more than 300 lb of which may be yelloweye rockfish	CLOSED[7/]		
40	**Canary rockfish**						
	North	200 lb/ 2 months		600 lb/ 2months	600 lb/ 2 months	CLOSED[7/]	
	South				CLOSED[7/]		
	Widow rockfish						
41	North						
42	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month		CLOSED[7/]	
43	small footrope trawl	1,000 lb/ month				CLOSED[7/]	
	South						
	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month	CLOSED[7/]		
	small footrope trawl	1,000 lb/ month			CLOSED[7/]		
44	**Yellowtail - North**[6/]						
45	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month		CLOSED[7/]	
46	small footrope trawl	In landings without flatfish, 1,000 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder. Combined with and without flatfish, not to exceed 30,000 lb/ 2 months.				CLOSED[7/]	
47	**Bocaccio - South**[6/]	600 lb/ 2 months		1,000 lb/ 2 months	CLOSED[7/]		
48	**Cowcod**	CLOSED[7/]					
49	**Minor nearshore rockfish**						
50	North	300 lb/ month				CLOSED[7/]	
51	South	300 lb/ month			CLOSED[7/]		
	Lingcod[8/]						
	North	800 lb/ 2 months		1,000 lb/ 2 months		CLOSED[7/]	
	South			1,000 lb/ 2 months	CLOSED[7/]		
52	**Other Fish**[10/]	Not limited			Grenadier retention permitted	CLOSED[7/]	

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.
2/ Gear requirements and prohibitions are explained above. See IV.A.(14).
3/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with species specific management measures, including trip limits.
4/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/trip from January 1 - August 31, 2002. From September 1 - December 31, 2002, the whiting fishery is closed.
5/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter. In areas where trawl gear is restricted, only one type of trawl gear is allowed on board at ony one time. See above.
6/ Yellowtail rockfish in the south and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.
7/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).
8/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
9/ The minimum size requirement for sablefish is 22 inches (56 cm) total lengthand. No more than 500 lb of undersized sablefish may be landed per trip.
10/ Other fish are defined at 50 CFR 660.302, as those groundfish species or species groups for which there is no trip limit, size limit, quota, or harvest guideline.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

BILLING CODE 3510–22–C

3. On page 44786, in column 1, the paragraph (designation ''(i)(a)'' is corrected to read as ''(2)(a)''.

4. On page 44786, in column 1, the amendatory paragraph No. 6 is corrected to read as follows:

''6. On page 10521, in column 3, in Section IV., under D. Recreational Fishery, paragraph (1)(a)(ii) is revised and on page 10522, in columns 1 and 2, under D. Recreational Fishery, paragraph (1)(a)(iii) is revised and paragraph (1)(b)(ii) is revised to read as follows:''

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

Dated: August 22, 2002.

Virginia M. Fay,

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

[FR Doc. 02–21813 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000331092–0315–02; I.D. 030100F]

RIN 0648–AQ36

Fisheries of the Exclusive Economic Zone off Alaska; License Limitation Program for the Scallop Fishery; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: This action corrects part of the definition of ''eligible applicant'' in a final rule published December 14, 2000, to implement the License Limitation Program (LLP) for the Scallop Fishery. This action is necessary to correct paragraph (3) of the definition ''eligible applicant'' because it is inconsistent with regulations governing the LLP application requirements and the original intent of the LLP.

DATES: Effective August 27, 2002.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008, or Patsy.Bearden@noaa.gov.

SUPPLEMENTARY INFORMATION: This action corrects paragraph (3) of the definition of ''eligible applicant'' for a crab species license. This paragraph is designed to implement part of the LLP for the crab fisheries in the Bering Sea and Aleutian Islands. A final rule to implement the initial crab LLP was published on October 1, 1998 (63 FR 52642). As published in this rule, paragraph (3) incorrectly included the word ''and'' between ''1993'' and ''1994'' in the ''eligible applicant'' definition. This error incorrectly made the conditions for a certain crab species license more restrictive than intended by the North Pacific Fishery Management Council and NMFS and inconsistent with crab species license criteria specified at § 679.4(k)(5)(ii)(G). NMFS corrected this error on September 12, 2000 (65 FR 54971) (LLP Correction).

Subsequently, NMFS issued a final rule on December 14, 2000 (65 FR 78110) (Scallop Final Rule) to implement Amendment 4 to the Fishery Management Plan for the Scallop Fishery off Alaska, which created an LLP for the scallop fishery. The scallop final rule added clarifying subheadings to the numbered paragraphs within the definition of ''eligible applicant'' and in the process, repeated the regulatory text of each paragraph. The regulatory text repeated for paragraph (3), however, was the original incorrect text published on October 1, 1998, for the crab LLP. This mistake likely occurred because, with respect to paragraph (3), the scallop final rule relied on the text of the proposed rule for the scallop LLP which was published on April 21, 2000 (65 FR 21385), before the text was corrected nearly five months later on September 12, 2000. Therefore, this action re-corrects paragraph (3) to read as originally intended and corrected to read on September 12, 2000.

Classification

The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment under authority set forth in 5 U.S.C. 553(b)(B). The rationale for this finding is that prior notice and comment are unnecessary under the Administrative Procedure Act because the correction of this paragraph will have no substantive effect on the regulated public. Prior notice and comment would be contrary to the public interest because it would prolong the inaccurate paragraph that currently exists in the regulations and that had been previously corrected in the September 12, 2000, notice.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: August 19, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons explained in the preamble, 50 CFR part 679 is corrected by making the following correcting amendment:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec 3027, Pub. L. 106–31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106–554.

2. In § 679.2, paragraph (3) under the definition for ''eligible applicant'' is revised to read as follows:

§ 679.2 Definitions.

* * * * *

Eligible applicant * * *

* * * * *

(3) For a crab species license, who was an individual who held a State of Alaska permit for the Norton Sound king crab summer fishery at the time he or she made at least one harvest of red or blue king crab in the relevant area during the period specified in § 679.4(k)(5)(ii)(G), or a corporation that owned or leased a vessel on June 17, 1995, that made at least one harvest of red or blue king crab in the relevant area during the period in § 679.4(k)(5)(ii)(G), and that was operated by an individual who was an employee or a temporary contractor; or

* * * * *

[FR Doc. 02–21808 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 167
Wednesday, August 28, 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

Commodity Credit Corporation

7 CFR Part 1465

RIN 0578–AA31

Agricultural Management Assistance Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Commodity Credit Corporation is issuing a proposed rule with request for comments for the Agricultural Management Assistance (AMA) Program. Section 524(b) of the Federal Crop Insurance Act, as amended by Section 133 of the Agricultural Risk Protection Act of 2000, authorized the AMA Program. This proposed rule sets forth the procedures for how producers would apply and participate in the AMA Program.

DATES: Comments must be received by September 27, 2002.

ADDRESSES: Send comments by mail to Conservation Operations Division, Natural Resources Conservation Service, P.O. Box 2890 or by e-mail to *FarmBillRules@.usda.gov;* attention: Agricultural Management Assistance.

FOR FURTHER INFORMATION CONTACT: Mark W. Berkland, Director, Conservation Operations Division, NRCS, P.O. Box 2890, Washington, DC 20013–2890, telephone: (202) 720–1845; fax: (202) 720–4265; e-mail: *FarmBillRules@usda.gov,* Attention: Agricultural Management Assistance.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), the Office of Management and Budget determined that this proposed rule is not a significant regulatory action.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 533 or by any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Analysis

A draft Environmental Assessment (EA) has been prepared to assist in determining whether this proposed rule, if implemented, would have a significant impact on the quality of the human environment such that an Environmental Impact Statement should be prepared. Based on the results of the draft EA, NRCS proposes issuing a finding of no significant impact (FONSI) before a final rule is published. Copies of the draft EA and FONSI may be obtained from Walley Turner, Conservation Operations Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013–2890 or at *http://www.nrcs.usda.gov/programs/Env Assess/AMA/AMA.html.* Provide comments on the draft EA and FONSI to *FarmBillRules@usda.gov,* Attention: Agricultural Management Assistance, or to the National Environmental Coordinator, Ecological Sciences Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC, 20013–2890.

Civil Rights Impact Analysis

CCC has determined through a Civil Rights Impact Analysis that the issuance of this proposed rule will not have a significant effect on minorities. Copies of the Civil Rights Impact Analysis and Finding of No Significant Impact may be obtained from Walley Turner, Conservation Operations Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013–2890.

Paperwork Reduction Act

This proposed rule sets forth procedures for implementing AMA. CCC needs certain information from potential applicants in order to carry out the requirements of the program. CCC submitted the information collection requirements in this proposed rule to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and CCC prepared an Information Collection Request (ICR) document. The public may obtain a copy of this request from Walley Turner, Conservation Operations Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013–2890.

NRCS is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and NRCS in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required for participation in the program proposed under this rule are not yet fully implemented for the public to conduct business with NRCS electronically. However, the application form will be available electronically through the USDA eForms Web site at *http://www.sc.egov.usda.gov* for downloading. Applications may be submitted at the local USDA service centers, by mail or by FAX. At this time, electronic submission is not available because signatures from multiple produces with shares in agricultural operations are required. Still, full implementation of electronic submission is underway.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988. The provisions of this proposed rule are not retroactive. Furthermore, the provisions of this proposed rule preempt State and local laws to the extent such laws are inconsistent with this proposed rule. Before an action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded persons at 7 CFR parts 614, 780 and 11 must be exhausted.

Unfunded Mandates Reform Act of 1995

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, CCC assessed the effects of this rulemaking action on State, local, and Tribal governments, and the public. This action does not compel the expenditure of $100 million or more by any State, local, or Tribal government, or anyone in the private sector; therefore a statement under section 202 of the

Unfunded Mandates Reform Act of 1995 is not required.

Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994

Because USDA classified this proposed rule as ''not major'' under section 304 of the Department of Agriculture Reorganization Act of 1994, Pub. L. 104–354, a risk assessment is not required.

List of Subjects in 7 CFR Part 1465

Conservation contract, Conservation plan, Conservation practices, Soil and water conservation.

Accordingly, Title 7 of the Code of Federal Regulations is proposed to be amended by adding a new part 1465 to read as follows:

PART 1465—AGRICULTURAL MANAGEMENT ASSISTANCE

Subpart A—General Provisions

Sec.

1465.1 Applicability.
1465.2 Administration.
1465.3 Definitions.
1465.4 Program requirements.
1465.5 Conservation practices.

Subpart B—Contracts

1465.20 Applications for participation and selecting applications for contracting.
1465.21 Contract requirements.
1465.22 Conservation practice operation and maintenance.
1465.23 Cost-share payments.
1465.24 Contract modification, extension, and transfer of land.
1465.25 Contract violations and termination.

Subpart C—General Administration

1465.30 Appeals
1465.31 Compliance with regulatory measures.
1465.32 Access to operating unit.
1465.33 Performance based upon advice or action of CCC representative.
1465.34 Offsets and assignments.
1465.35 Misrepresentation and scheme or device.

Authority: 7 U.S.C. 1524(b), 16 U.S.C. 3801.

Subpart A—General Provisions

§ 1465.1 Applicability.

Through the Agricultural Management Assistance (AMA) program, the Commodity Credit Corporation (CCC) provides financial assistance funds annually to producers in 15 statutorily designated States to construct or improve water management structures or irrigation structures; to plant trees to form windbreaks or to improve water quality; and to mitigate risk through production diversification or resource conservation practices, including soil erosion control, integrated pest management, or transition to organic farming. The AMA Program is applicable in Connecticut, Delaware, Maryland, Massachusetts, Maine, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming.

§ 1465.2 Administration.

(a) Administration and implementation of the conservation provisions of AMA Program for the CCC is assigned to the Natural Resources Conservation Service (NRCS). The Farm Service Agency (FSA) is responsible for ''person'' determinations under § 1465.23(c) and making cost-share payments.

(b) NRCS shall:

(1) Provide overall management and implementation leadership for the AMA Program;

(2) Establish policies, procedures, priorities, and guidance for implementation;

(3) Establish cost-share payment limits;

(4) Determine eligible practices;

(5) Develop and approve conservation plans and contracts with selected participants;

(6) Provide technical leadership for implementation, quality assurance, and evaluation of performance; and

(7) Make funding decisions and determine allocations of AMA funds.

(c) FSA shall:

(1) Determine 'person' and producer eligibility; and

(2) Make cost-share payments for practices completed.

§ 1465.3 Definitions.

The following definitions shall apply to this part and all documents issued in accordance with this part, unless specified otherwise:

Agricultural land means cropland, hayland, pastureland, rangeland, land used for subsistence purposes, and other land, such as forestland, on which crops or livestock are produced.

Applicant means an agricultural producer who has requested in writing to participate in the AMA Program. Producers who are members of a joint operation shall be considered one applicant.

Chief means the Chief of NRCS, or designee.

Conservation district means a political subdivision of a State, Indian tribe, or territory, organized pursuant to the State or territorial soil conservation district law, or tribal law. The subdivision may be a conservation district, soil conservation district, soil and water conservation district, resource conservation district, natural resource district, land conservation committee, or similar legally constituted body.

Conservation practice means a specified treatment, such as a structural or vegetative practice or a land management practice, which is planned and applied according to NRCS standards and specifications.

Contract means a legal document that specifies the rights and obligations of any person who has been accepted for participation in the AMA Program.

Cost-share payment means the financial assistance from CCC to the participant to share the cost of installing eligible practices.

Designated conservationist means an NRCS employee whom the State conservationist has designated as responsible for administration of the AMA Program.

Indian Tribe means any Indian Tribe, band, nation, or other organized group or community that is recognized as eligible for the special assistance and services provided by the United States to Indians because of their status as Indians.

Indian trust lands means real property in which:

(1) The United States holds title as trustee for an Indian or tribal beneficiary, or

(2) An Indian or Tribal beneficiary holds title and the United States maintains a trust relationship.

Lifespan means the minimum time period in which the conservation practices are to be maintained and used for their intended purpose.

Liquidated damages means a sum of money stipulated in the contract that the participant agrees to pay if the participant breaches the contract. The sum represents an estimate of the anticipated or actual harm caused by the breach, and reflects the difficulties of proof of loss and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy.

Operation and maintenance means work that shall be performed by the participant to keep the applied conservation practice functioning for the intended purpose during its life span. Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail.

Participant means an applicant who is a party to an AMA contract.

Producer means a person who is engaged in agricultural production.

Secretary means the Secretary of the U.S. Department of Agriculture.

State Conservationist means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area, or the Pacific Basin Area.

State Technical Committee means a committee established by the Secretary in a State pursuant to 16 U.S.C. 3861.

Technical assistance means the personnel and support resources needed to conduct conservation practice survey, layout, design, installation, and certification; training and providing quality assurance for professional conservationists; and evaluation and assessment of the AMA Program.

Unit of concern means a parcel of agricultural land that has natural resource conditions that are of concern to the participant.

§ 1465.4 Program requirements.

(a) Participation in the AMA Program is voluntary. The participant, in cooperation with the local conservation district, applies for practice installation for the farm or ranching unit of concern. The CCC provides cost-share payments through contracts to apply needed conservation practices within a time schedule specified in the contract.

(b) The Chief determines the funds available for financial assistance according to the purpose and projected cost for which the financial assistance is provided in a fiscal year. The Chief allocates the funds available to carry out the AMA Program. Funding obligations shall not exceed the financial assistance provided in a fiscal year.

(c) To be eligible to participate in the AMA Program, an applicant must:

(1) Meet the Food Security Act ''person'' definition and be an agricultural producer;

(2) Have control of the land for the life of the proposed contract period, except that—

(i) An exception may be made by the Chief in the case of land allotted by the Bureau of Indian Affairs (BIA), Tribal land, or other instances in which the Chief determines that there is sufficient assurance of control; or

(ii) If the applicant is a tenant of the land involved in agricultural production, the applicant shall provide CCC with the written concurrence of the landowner in order to apply an eligible practice;

(3) Submit an application that is acceptable to CCC and is in compliance with the terms and conditions of the AMA Program, and

(4) Supply information as required by CCC to determine eligibility for the AMA Program.

(5) States, political subdivisions, and entities thereof will not be persons eligible for payment.

(6) Any cooperative association of producers that markets commodities for producers shall not be considered to be a person eligible for payment.

(d) Land used as agricultural land that NRCS determines poses a threat to watershed or irrigation management, water quality, or financial risk due to soil erosion, pest infestation, or cultural practices including the existing agricultural management practices of the applicant may be eligible for enrollment in the AMA Program. Land may only be considered for enrollment in the AMA program if NRCS determines that the land is:

(1) Privately owned land;

(2) Publicly owned land where:

(i) The land is under private control for the contract period and is included in the participant's operating unit;

(ii) Conservation practices will contribute to improving the identified natural resource concern; and

(iii) The participant has provided CCC with written authorization from the government landowner to apply the conservation practices; or

(3) Federally recognized Tribal, BIA-allotted, or Indian trust land.

§ 1465.5 Conservation practices.

(a) The State Conservationist, with advice from the State Technical Committee, shall determine the conservation practices eligible for AMA Program payments. To be considered eligible conservation practices, the practices must improve soil or water management or water quality, or mitigate financial risk through resource conservation.

(b) The State Conservationist, with advice from the State Technical Committee, shall determine the conservation practices eligible for AMA Program payments using a locally led process and guidance in paragraph (a) of this section.

Subpart B—Contracts

§ 1465.20 Applications for participation and selecting applications for contracting.

(a) Any producer who has eligible land may submit an application for participation in the AMA Program at a USDA service center. Producers who are members of a joint operation shall file a single application for the joint operation.

(b) CCC will accept applications throughout the year. The State Conservationist, with advice from the State Technical Committee, will distribute information on the availability of assistance and the state-specific goals. Information will be provided that explains the process and how to request assistance.

(c) The State Conservationist, with advice from the State Technical Committee, will develop ranking criteria and a ranking process to select applications taking into account local and State priorities.

(d) The State Conservationist, with advice from the State Technical Committee, will rank and select applications for contracting based on the State-developed ranking criteria and ranking process.

(e) The designated conservationist will work with the applicant to collect the information necessary to evaluate the application using the ranking criteria.

(f) FSA shall determine ''person'' and producer eligibility and make contract payments.

§ 1465.21 Contract requirements.

(a) In order for a participant to receive cost-share payments, the participant shall enter into a contract agreeing to implement eligible conservation practices.

(b) An AMA contract shall:

(1) Incorporate by reference all portions of a unit applicable to the AMA Program;

(2) Be for a duration of 3 to 10 years;

(3) Incorporate all provisions as required by law or statute, including participant requirements to:

(i) Not conduct any practices on the farm or ranch unit of concern that would tend to defeat the purposes of the contract according to § 1465.25;

(ii) Refund any AMA Program payments received with interest, and forfeit any future payments under the AMA Program, on the violation of a term or condition of the contract, consistent with the provisions of § 1465.25;

(iii) Refund all AMA Program payments received on the transfer of the right and interest of the producer in land subject to the contract unless the transferee of the right and interest agrees to assume all obligations of the contract, consistent with the provisions of § 1465.24; and

(iv) Supply information as required by CCC to determine compliance with the contract and requirements of the AMA Program.

(4) Specify the participant's requirements for operation and maintenance of the applied conservation practices consistent with the provisions of § 1465.22; and

(5) Incorporate any other provision determined necessary or appropriate by CCC.

(c) The participant must apply the practice(s) within 10 years of signing a contract.

§ 1465.22 Conservation practice operation and maintenance.

The contract shall incorporate the operation and maintenance of the conservation practice(s) applied under the contract. The participant shall operate and maintain the conservation practice(s) for its intended purpose for the lifespan of the conservation practice, as identified in the contract or conservation plan, as determined by CCC. CCC may periodically inspect the conservation practices during the lifespan of the practices as specified in the contract to ensure that operation and maintenance are occurring.

§ 1465.23 Cost-share payments.

(a)(1) The Federal share of cost-share payments to a participant shall be 75 percent of the actual cost of an eligible practice. In no instance shall the total financial contributions for an eligible practice from all public- and private-entity sources exceed 100 percent of the actual cost of the practice.

(2) Participants may contribute their portion of the costs of practices through in-kind contributions, including labor and materials, providing the materials contributed meet the NRCS standards and specifications for the practice being installed.

(3) Cost-share payments will not be made to a participant who has applied or initiated the application of a conservation practice prior to approval of the contract.

(b) The total amount of cost-share payments paid to a person under this part may not exceed $50,000 for any fiscal year.

(c) For purposes of applying the payment limitations provided for in this section, CCC shall use the provisions in 7 CFR part 1400 related to the definition of a ''person'' and the limitation of payments, except that:

(1) The provisions in part 1400, subpart C for determining whether persons are actively engaged in farming, subpart E for limiting payments to certain cash rent tenants, and subpart F as the provisions apply to determining whether foreign persons are eligible for payment, will not apply.

(2) With respect to land under an AMA Program contract which is inherited during the contract period, the $50,000 fiscal year limitation shall not apply to the extent that the payments from any contracts on the inherited land cause an heir who was party to an AMA Program contract on other lands prior to the inheritance to exceed the annual limit.

(3) With regard to contracts on Tribal land, Indian trust land, or BIA allotted land, payments exceeding one limitation may be made to the Tribal venture if an official of the BIA or tribal official certifies in writing that no one person directly or indirectly will receive more than the limitation.

(4) The status of an individual or entity on the date of the application shall be the basis on which the determination of the number of persons involved in the farming operation is made.

(d) The participant and NRCS must certify that a conservation practice is completed in accordance with the contract before CCC will approve the payment of any cost-share payment.

§ 1465.24 Contract modifications, extensions, and transfers of land.

(a) The participant and CCC may modify a contract if the participant and CCC agree to the contract modification.

(b) Contracts that run less than 10 years may be extended for up to the 10-year limit in order for the participant to complete the practices scheduled in the contract if such extension is requested by the participant before the contract expires.

(c) The parties may agree to transfer a contract with the agreement of all parties to the contract. The transferee must be determined by CCC to be eligible to participate in the AMA Program and shall assume full responsibility under the contract, including operation and maintenance of those conservation practices already installed and to be installed as a condition of the contract.

(d) CCC may require a participant to refund all or a portion of any assistance earned under the AMA Program if the participant sells or loses control of the land under an AMA Program contract and the new owner or controller is not eligible to participate in the AMA Program or refuses to assume responsibility under the contract.

§ 1465.25 Contract violations and termination.

(a)(1) If CCC determines that a participant is in violation of the terms of a contract or documents incorporated by reference into the contract, CCC shall give the participant a reasonable time, as determined by the State Conservationist, to correct the violation and comply with the terms of the contract and attachments thereto. If a participant continues in violation, the State Conservationist may terminate the AMA Program contract.

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, a contract termination shall be effective immediately upon a determination by the State Conservationist that the participant has submitted false information or filed a false claim, or engaged in any act for which a finding of ineligibility for payments is permitted under the provisions of § 1465.35, or in a case in which the actions of the party involved are deemed to be sufficiently purposeful or negligent to warrant a termination without delay.

(b)(1) If CCC terminates a contract, the participant shall forfeit all rights for future payments under the contract and shall refund all or part of the payments received, plus interest determined in accordance with part 1403 of this chapter. The State Conservationist has the option of requiring only partial refund of the payments received if the State Conservationist determines that a previously installed conservation practice can function independently, is not affected by the violation or other conservation practices that would have been installed under the contract, and the participant agrees to operate and maintain the installed conservation practice for the lifespan of the practice.

(2) If CCC terminates a contract due to breach of contract or the participant voluntarily terminates the contract before any contractual payments have been made, the participant shall forfeit all rights for further payments under the contract and shall pay such liquidated damages as are prescribed in the contract. The State Conservationist will have the option to waive the liquidated damages depending upon the circumstances of the case.

(3) When making all contract termination decisions, CCC may reduce the amount of money owed by the participant by a proportion that reflects the good faith effort of the participant to comply with the contract, or the hardships beyond the participant's control that have prevented compliance with the contract.

(4) The participant may voluntarily terminate a contract if CCC agrees, based on CCC's determination that termination is in the public interest.

(5) In carrying out CCC's role in this section, NRCS may consult with the local conservation district.

Subpart C—General Administration

§ 1465.30 Appeals.

(a) A participant may obtain administrative review of an adverse decision under the AMA Program in

accordance with parts 11 and 614 of this title, except as provided in paragraph (b) of this section.

(b) The following decisions are not appealable:

(1) Payment rates, payment limits, and cost-share percentages;

(2) Funding allocations;

(3) Eligible conservation practices; and

(4) Other matters of general applicability, including—

(i) Technical standards and formulas;

(ii) Denial of assistance due to lack of funds or authority; or

(iii) Science-based formulas and criteria.

§ 1465.31 Compliance with regulatory measures.

Participants who carry out conservation practices shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary for the implementation, operation, and maintenance of the conservation practices in keeping with applicable laws and regulations. Participants shall be responsible for compliance with all laws and for all effects or actions resulting from the participant's performance under the contract.

§ 1465.32 Access to operating unit.

Any authorized CCC representative shall have the right to enter an operating unit or tract to ascertain the accuracy of any representations made in a contract, in anticipation of entering a contract, or as to the performance of the terms and conditions of the contract. Access shall include the right to provide technical assistance and inspect any work undertaken under the contract. The CCC representative shall make a reasonable effort to contact the participant prior to the exercise of this provision.

§ 1465.33 Performance based upon advice or action of CCC representative.

If a participant relied upon the advice or action of any authorized representative of CCC and did not know or have reason to know that the action or advice was improper or erroneous, the State Conservationist may accept the advice or action as meeting the requirements of the AMA Program and may grant relief, to the extent it is deemed desirable by CCC, to provide a fair and equitable treatment because of the good-faith reliance on the part of the participant.

§ 1465.34 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the United States Government. The regulations governing offsets and withholdings found in part 1403 of this chapter shall be applicable to contract payments.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing assignment of payment found at part 1404 of this chapter.

§ 1465.35 Misrepresentation and scheme or device.

(a) A producer who is determined to have erroneously represented any fact affecting an AMA Program determination made in accordance with this part shall not be entitled to contract payments and must refund to CCC all payments, plus interest determined in accordance with part 1403 of this chapter.

(b) A producer who is determined to have knowingly:

(1) Adopted any scheme or device that tends to defeat the purpose of the AMA Program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting an AMA Program determination, shall refund to CCC all payments, plus interest determined in accordance with part 1403 of this chapter, received by such producer with respect to all contracts. The producer's interest in all contracts shall be terminated.

Signed in Washington, DC, on August 19, 2002.

Bruce I. Knight,

Vice President, Commodity Credit Corporation and Chief, Natural Resources Conservation Service.

[FR Doc. 02–21835 Filed 8–27–02; 8:45 am]

BILLING CODE 3410–16–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

RIN 3150–AG64

Transfers of Certain Source Materials by Specific Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require NRC approval for transfers from licensees of low-concentrations of source material (less than 0.05 percent by weight) to persons exempt from licensing. The object of this proposed action is to ensure that the regulations regarding transfers of materials containing low concentrations of source material are adequate to protect public health and safety.

DATES: Submit comments by November 12, 2002. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking Web site (*http://ruleforum.llnl.gov*). This site provides the capability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov.*

Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, Room O–1F23, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking Web site.

The NRC maintains an Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Gary Comfort, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–8106, e-mail *gcc1@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC regulations in 10 CFR 40.13 exempt persons from the licensing requirements for certain materials containing uranium and thorium referred to as ''unimportant quantities.'' One of these exemptions, § 40.13(a), is for ''chemical mixtures,

compounds, solutions, or alloys'' in which the source material is by weight less than 0.05 percent. Section 40.13(a) exempts any person from NRC licensing requirements ''to the extent that such person receives, possesses, uses, transfers, or delivers source material in any chemical mixture, compound, solution, or alloy in which source material is by weight less than one-twentieth of 1 percent (0.05 percent) of the mixture, compound, solution, or alloy.'' This exemption stems from regulations adopted approximately 40 years ago. The 0.05 percent by weight limit appears to have been chosen on the basis of concentrations of source material that are necessary to be a useful source of fissionable material. (The 0.05-percent by weight limit is equivalent to approximately 339 picocuries uranium/gram (pCiU/gram) for natural uranium or 116 picocuries thorium/gram (pCiTh/gram) for natural thorium.)

Some NRC licensees are in possession of mixtures of material derived from their licensed processes where the source material is under 0.05 percent by weight. These licensees hold licenses because the processes which resulted in this lower concentrated material at some point used material in which the concentration of source material exceeded 0.05 percent by weight source material. Specific licensees are subject to requirements for decommissioning in Part 40 (§ 40.42) and waste disposal requirements in Part 20. The 0.05 percent standard of 10 CFR 40.13(a) is not a disposal standard. However, the current regulations, §§ 40.51(b)(3) and (b)(4), do not specifically require an NRC licensee (either general or specific) to obtain NRC approval before transferring source material to persons exempt from licensing requirements under § 40.13(a) or equivalent Agreement State regulations. After this material is transferred, it is no longer subject to NRC requirements because an exempt person is not subject to the requirements for decommissioning and disposal.

For some limited types and quantities of materials that fall under the exemption in § 40.13(a), transfers could potentially result in scenarios where exposure limits in 10 CFR Part 20 could be exceeded. Recent estimates of possible radiation doses from thorium and uranium suggest that quantities of source material in concentrations below the 0.05-percent limit, in certain situations, could result in individual doses of more than 1 millisievert/year (mSv/yr) (100 millirem/year (mrem/yr)). Examples of some of these estimates can be found in NUREG–1717, ''Systematic Radiological Assessment of Exemptions for Source and Byproduct Materials,'' June 2001.

This recent information on doses from less than 0.05 percent by weight source material has led the Commission to review its regulations concerning source material. This is especially important in light of decommissioning and decontamination of facilities where less than 0.05 percent by weight source material is present in significant quantities and often involves questions of disposal options for this material. Therefore, the Commission is proposing to amend § 40.51 to require NRC approval for transfers of source material derived from licensees' specifically licensed material to ensure that these transfers do not pose a health and safety concern. Until such an authorized transfer occurs, the material, regardless of its concentration of source material, remains part of the licensee's inventory of licensed material. This approval does not apply to the general license provisions in Part 40—the proposed approval is limited to source material derived from specifically licensed material. This is because of the more limited quantities of material handled under general license. In addition, it is not intended for this requirement to apply to uranium and thorium that is essentially at the natural background levels of the surrounding area. The primary concern for this proposed rule is to handle situations where quantities of licensed source material have been processed through licensed operations resulting in mixtures of material containing less than 0.05 percent by weight source material.

In making its determination regarding transfer of less than 0.05 percent source material, the NRC would generally evaluate the potential use and disposition scenarios on a case-by-case basis. Factors that may be considered include, but are not limited to, whether the dose arises from an occupational exposure (albeit to a worker at an unlicensed facility), whether the exposed individual is informed of and consents to the exposure, the likely duration of the exposure, the estimated number of exposed individuals, the doses the individual has received in the past from similar type actions, and whether appropriate Federal, State, and local regulations regarding possession of such material by the exempt person are met for the intended use or disposal. The Commission would expect licensees to address, as part of their approval requests for transfer of material under this rule, analyses of doses that may occur to the recipients of the material during the transfer and disposal operations, as well as, the doses that may occur as the result of the disposal consistent with the License Termination Rule, 10 CFR Part 20, Subpart E or RCRA requirements, as appropriate.

If the approval request is for transfer for the purpose of direct disposal in an appropriate facility (*e.g.,* a RCRA Subtitle C facility authorized for such material or other disposal facilities having in place the appropriate State or EPA permits), the request for transfer would normally be approved if the dose to a member of the general public is unlikely to exceed 0.25 mSv/yr (25 mrem/yr). If the expected dose to a member of the general public is estimated to be between 0.25 mSv/yr (25 mrem/yr) and 1 mSv/yr (100 mrem/yr), the NRC staff will inform the Commission of the request and its resolution status. These limitations, however, do not preclude a licensee from requesting approval for a transfer that could potentially result in doses to a member of the general public above 1 mSv/yr (100 mrem/yr); however, such approval would be based upon the unique circumstances of the specific case under review and would not be approved by the NRC staff without full Commission review.

The above dose limits are applicable to transfers for the purpose of direct disposal in an appropriate facility (*e.g.*, a RCRA Subtitle C facility authorized for such material or other disposal facilities having in place the appropriate State or EPA permits). If transfers of material are sought for other purposes such as recycle or indirect disposal, such dose limits may not be appropriate. Lower dose limits may need to be considered.

Several licensees have requested NRC approval to transfer less than 0.05 percent source material to exempt persons in the past several years. The Commission has made these decisions on a case-by-case basis. Pending publication of these amendments to § 40.51 as a final rule, the Commission will continue its current policy of approving requests to transfer material to exempt persons under § 40.13(a) or equivalent Agreement State regulations on a case-by-case basis.

Additionally, NRC does not permit licensees to intentionally dilute licensed source materials without specific approval. Section 40.41(c) states that ''each person licensed by the Commission pursuant to the regulations in this part shall confine his possession and use of source or byproduct material to the locations and purposes authorized in the license.'' Although it is recognized that inadvertent dilution may occasionally occur (*e.g.*, during the process of preparing contaminated

material for shipment, some mixing with cleaner material may result as it is ''dug up'' and loaded for shipment before sampling), this natural dilution of the concentration of uranium and thorium is in contrast to the intentional dilution of contaminated material for the purpose of reducing its concentration below 0.05 percent which is not acceptable in the absence of prior authorization. Intentional dilution of licensed source material, without prior NRC authorization, would be considered a violation of § 40.41(c). The NRC is seeking public comment on whether this policy should be better clarified by adding rule language specifically prohibiting intentional dilution without prior authorization in the regulations.

As part of this proposed rule, the Commission is also proposing to amend § 40.13(a) by adding the word ''disposes'' to the list of exempted activities in § 40.13(a). This addition would clarify the exemption's applicability to disposal. However, it should be noted that any on-site disposal by a licensee of mixtures of material containing under 0.05 percent by weight (that was derived from its licensed material) source material is not addressed by § 40.13(a). Any such disposal would continue to require approval under 10 CFR 20.2002 and be subject to reevaluation under the Decommissioning Timeliness Rule, 10 CFR 40.42 and the License Termination Rule, 10 CFR Part 20, Subpart E.

Agreement State Compatibility

Section 40.13 is presently a compatibility ''B'' item, and § 40.51 is presently a compatibility ''C'' item, except for § 40.51(b)(6) which deals with exports and is reserved for NRC. The compatibility status reflects the extent to which Agreement State regulations must conform to NRC regulations, as detailed in ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'', published September 3, 1997 (62 FR 46517). The proposed amendments, if made final, would not change the compatibility status of § 40.13 or § 40.51. Agreement States would be required to revise their regulations equivalent to § 40.13(a) and would be expected to have the same or more stringent criteria than NRC's when making their determinations regarding transfers for direct disposal of less than 0.05 percent source material.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing'' directed that the Government's writing be in plain language. In complying with this directive, editorial changes have been made in the proposed revisions to improve the organization and readability of the existing language of paragraphs being revised. These types of changes are not discussed further in this notice. The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC is presenting amendments to its regulations that allow transfers of source material that is less than 0.05 percent by weight to persons exempt under § 40.13(a) or equivalent Agreement State regulations. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, not to prepare an environmental impact statement for this proposed rule because the Commission has concluded on the basis of an environmental assessment that this proposed rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment. The licensees affected by the proposed changes to § 40.51 fall into two groups: those licensees who would continue to be allowed to transfer their low concentrations of source material to exempt persons and those licensees who would not be allowed to transfer their low concentrations of source materials to exempt persons. For the first group there are no environmental impacts associated with this rule because the only change brought about by this rule is the requirement to apply for such approval. There would be no change to human health or the environment as a result.

For the second group, some transfers to exempt persons may not be approved. Consequently, low concentrations of source materials at these licensed facilities would need to remain on site or could be transferred to or disposed of at other licensed facilities. As a result, this source material would continue to be managed in a regulated manner that would provide significantly greater protection to the public and the environment from exposure to radiation. Workers at licensed facilities would be expected to be exposed to lower doses of radiation than the levels to which workers at unregulated exempt facilities would be exposed, because of the routine safety precautions required at licensed facilities.

The proposed amendment to § 40.13(a) is only for the purpose of clarifying existing rule language. As a result, there would be no impact on human health or the environment resulting from this amendment.

Because under adoption of the proposed rule, there would be either (1) no change to human health or the environment or (2) greater protection of human health and the environment (relative to the current regulation), the determination of this environmental assessment is that there will be no significant impact to the public from this action. However, the general public should note that the NRC welcomes public participation. The NRC has also committed to complying with Executive Order (EO) 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994, in all its actions. Therefore, the NRC has also determined that there are no disproportionate, high, and adverse impacts on minority and low-income populations. In the letter and spirit of EO 12898, the NRC is requesting public comment on any environmental justice considerations or questions that the public thinks may be related to this proposed rule but somehow were not addressed. The NRC uses the following working definition of ''environmental justice'': the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income, or educational level with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Comments on any aspect of the Environmental Assessment, including environmental justice, may be submitted to the NRC as indicated under the **ADDRESSES** heading.

The NRC has sent a copy of the Environmental Assessment and this proposed rule to every State Liaison Officer and requested their comments on the Environmental Assessment. The Environmental Assessment may be examined at the NRC Public Document

Room, O–1F23, 11555 Rockville Pike, Rockville, MD. Single copies of the environmental assessment are available from Gary Comfort, telephone (301) 415–8106, e-mail, *gcc1@nrc.gov* of the Office of Nuclear Material Safety and Safeguards.

Paperwork Reduction Act Statement

This proposed rule contains information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

The burden to the public for these information collections is estimated to average 50 hours per response for the initial transfer request and an additional 25 hours per response for requests for additional information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in the proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden, to the Records Management Branch (T–6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV;* and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0020), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the information collections or on the above issues should be submitted by September 27, 2002. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading. The analysis is available for inspection in the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the regulatory analysis are available from Gary Comfort, telephone (301) 415–8106, e-mail, *gcc1@nrc.gov* of the Office of Nuclear Material Safety and Safeguards.

During development of the regulatory analysis, the NRC evaluated the possibility of a licensee disposing of its material in a mill tailings impoundment rather than a licensed burial facility, if the licensee was denied approval to transfer their source material to a person exempt under § 40.13(a) or equivalent Agreement State regulations. Although it is expected that this disposition method would reduce the costs related to the potential impact of this proposed rule, sufficient cost data were not available to include it as part of the regulatory analysis. Therefore, the NRC is seeking public comment and any available cost data regarding the inclusion of this disposal method in the Regulatory Analysis. Comments should be sent to the address listed under the heading **ADDRESSES**, above.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule would require licensees to apply to the Commission for approval to transfer source material to persons exempt under § 40.13(a) or equivalent Agreement State regulations. In total, the NRC estimates that, of the approximately 114 licensees under Part 40, approximately three to six licensees per year would apply to the Commission, *i.e.*, about three to five percent of all Part 40 licensees. The NRC further estimates that the vast majority of licensees would need only submit an application to the NRC at an estimated one-time cost of about $3,600 to $5,300 per licensee. The NRC further estimates that, in rare circumstances, a licensee may be denied permission to transfer the material and, as a result, incur significant costs above the current (*i.e.*, baseline) regulatory program. However, the NRC estimates that this would happen to about one licensee per year, *i.e.*, less than one percent of all Part 40 licensees.

In sum, because the annual number of licensees submitting an application to NRC is expected to be very small (3–6 licensees annually), the NRC believes that the proposed rule would not impact a substantial number of entities, large or small.

Backfit Analysis

The NRC has determined that the backfit rule (§§ 50.109, 70.76, 72.62, or 76.76) does not apply to this proposed rule because this amendment would not involve any provisions that would impose backfits as defined in the backfit rule. Therefore, a backfit analysis is not required.

List of Subjects in 10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR Part 40.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

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

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243).

Sec. 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Section 40.13(a) is revised to read as follows:

§ 40.13(a) Unimportant quantities of source material.

(a) Any person is exempt from the regulations in this part and from the requirements for a license set forth in section 62 of the Act to the extent that such person receives, possesses, uses, disposes, transfers, or delivers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than one-twentieth of 1 percent (0.05 percent) of the mixture, compound, solution, or alloy. The exemption contained in this paragraph does not include byproduct material as defined in this part.

3. Section 40.51 is revised to read as follows:

§ 40.51 Transfer of source or byproduct material.

(a) No licensee shall transfer source or byproduct material except as authorized pursuant to this section.

(b) Except as otherwise provided in its license and subject to the provisions of paragraphs (c), (d), and (e) of this section, any licensee may transfer source or byproduct material:

(1) To the Department of Energy;

(2) To the agency in any Agreement State that regulates radioactive materials pursuant to an agreement with the Commission or the Atomic Energy Commission under section 274 of the Act;

(3) To any person exempt from the licensing requirements of the Act and regulations in this part, to the extent permitted under such exemption;

(4) To any person in an Agreement State subject to the jurisdiction of that State who has been exempted from the licensing requirements and regulations of that State, to the extent permitted under such exemptions;

(5) To any person authorized to receive such source or byproduct material under terms of a specific license or a general license or their equivalents issued by the Commission or an Agreement State;

(6) To any person abroad pursuant to an export license issued under part 110 of this chapter; or

(7) As otherwise authorized by the Commission in writing.

(c) Before transferring source or byproduct material to a specific licensee of the Commission or an Agreement State or to a general licensee who is required to register with the Commission or with an Agreement State prior to receipt of the source or byproduct material, the licensee transferring the material shall verify that the transferee's license authorizes receipt of the type, form, and quantity of source or byproduct material to be transferred.

(d) The following methods for the verification required by paragraph (c) of this section are acceptable:

(1) The transferor may have in its possession, and read, a current copy of the transferee's specific license or registration certificate;

(2) The transferor may have in its possession a written certification by the transferee that it is authorized by license or registration certificate to receive the type, form, and quantity of source or byproduct material to be transferred, specifying the license or registration certification number, issuing agency, and expiration date;

(3) For emergency shipments, the transferor may accept oral certification by the transferee that it is authorized by license or registration certificate to receive the type, form, and quantity of source or byproduct material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date, provided that the oral certification is confirmed in writing within 10 days;

(4) The transferor may obtain other sources of information compiled by a reporting service from official records of the Commission or the licensing agency of an Agreement State as to the identity of licensees and the scope and expiration dates of licenses and registrations; or

(5) When none of the methods of verification described in paragraphs (d)(1) to (4) of this section are readily available or when a transferor desires to verify that information received by one of these methods is correct or up-to-date, the transferor may obtain and record confirmation from the Commission or the licensing agency of an Agreement State that the transferee is licensed to receive the source or byproduct material.

(e) A licensee shall obtain written approval from the NRC before transferring any source material derived from its specifically licensed material to persons exempt under § 40.13(a) or equivalent Agreement State regulations. A licensee seeking NRC approval to transfer such material must submit a dose assessment with information containing the estimated annual total effective dose equivalent to a member of the public that would result from the transfer, and the parameters and assumptions used in the assessment.

Dated at Rockville, Maryland, this 22nd day of August, 2002.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 02–21887 Filed 8–27–02; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to grant a waiver of the nonmanufacturer rule for hand and edge tool manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for Hand and Edge Tool Manufacturing. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal Government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Program. The purpose of this notice is to solicit comments and potential source information from interested parties.

DATES: Comments and sources must be submitted on or before September 9, 2002.

ADDRESS COMMENTS TO: Edith Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington DC, 20416, Tel: (202) 619–0422.

FOR FUTHER INFORMATION CONTACT: Edith Butler, Program Analyst, (202) 619–0422 FAX (202) 205–7280.

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406 (b). Section 303(h) of the law provides for waiver of

this requirement by SBA for any ''class of products'' for which there are no small business manufacturers or processors in the Federal market.

To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months.

The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget *North American Industry Classification System (NAICS).* The second is the Product and Service Code established by the Federal Procurement Data System.

This notice proposes to grant A Waiver of the Nonmanufacturer Rule for hand and edge tool manufacturing, North American Industry Classification System (NAICS) 332212. The public is invited to comment or provide source information to SBA on the proposed waiver of the nonmanufacturer rule for hand and edge tool manufacturing, and provide information on potential small business manufacturers for these products.

In an effort to identify potential small business manufacturers, the SBA has searched the Procurement Marketing & Access Network (PRO-Net) and the SBA will publish a notice in the **Federal Register**. The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for these classes of products.

Linda G. Williams,

Associate Administrator for Government Contracting.

[FR Doc. 02–21894 Filed 8–27–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ACE–7]

Proposed Modification of Class D Airspace; Knob Noster, Whiteman AFB, MO; and Modification of Class E Airspace; Knob Noster, Whiteman AFB, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to modify Class D airspace at Knob Noster, Whiteman AFB, MO, modify Class E airspace designated as a surface area for Knob Noster, Whiteman AFB, MO and modify Class E airspace extending upward from 700 feet above the surface of the earth at Knob Noster, Whiteman AFB, MO. It has been determined that the Knob Noster, Whiteman AFB, MO Class D airspace and the Knob Noster, Whiteman AFB, MO Class E airspace designated as a surface area be amended to provide for containment of instrument approach procedures within controlled airspace. Adequate controlled airspace should be established to contain Category E circling requirements. It has also been determined that the extension of the Knob Noster, Whiteman AFB, MO Class E airspace extending upward from 700 feet above the surface of the earth is no longer required. This action would amend the existing Knob Noster, Whiteman AFB, MO Class D airspace and the Knob Noster, Whiteman AFB, MO Class E airspace designated as a surface area by changing the existing 4.6-mile radius to a 6.5-mile radius and by eliminating the north and south extensions. This action would also amended Knob Noster, Whiteman AFB, MO Class E airspace extending upward from 700 feet above the surface of the earth by deleting that portion within 1.8 miles each side of the Whiteman ILS localizer south course, extending from the 7-mile radius to the 9.7-mile radius south of Knob Noster, Whiteman AFB, MO.

DATES: Comments for inclusion in the Rules Docket must be received on or before October 7, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket Number 02–ACE–7, Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–ACE–7.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Central Region, Room 506, DOT Regional Headquaters Building, 901 Locust, Kansas City, MO 64106, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, 901 Locust, Kansas City, MO 64106. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class D airspace at Knob Noster, Whiteman AFB, MO. Class D airspace designations for airspace areas

extending upward from the surface of the earth are published in Paragraph 5000 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 D designation listed in this document would be published subsequently in the Order.

The FAA is also considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace designated as a surface area at Knob Noster, Whiteman AFB, MO. Class E airspace areas designated as a surface area for an airport are published in Paragraph 6002 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designated as a surface area listed in this document would be published subsequently in the Order.

Further, the FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace designated as extending upward from 700 feet above the surface of the earth at Knob Noster, Whiteman AFB, MO. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designated as extending upward from 700 feet above the surface of the earth listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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 Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ACE MO D Knob Noster, MO [Revised]

Whiteman AFB, MO
(Lat. 38°43′49″N., long. 93°32′53″W.)
Whiteman TACAN
(Lat. 38°44′09″N., long. 93°33′02″W.)
Hawks NDB
(Lat. 38°37′49″N., long. 93°34′21″W.)

That airspace extending upward from the surface to and including 3,400 feet MSL and within a 6.5-mile radius of Whiteman AFB. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

ACE MO E2 Knob Noster, MO [Revised]

Whiteman AFB, MO
(Lat. 38°43′49″ N., long. 93°32′53″ W.)
Whiteman TACAN
(Lat. 38°44′09″ N., long. 93°33′02″ W.)
Hawks NDB
(Lat. 38°37′49″ N., long. 93°34′231″ W.)

That airspace extending upward from the surface within a 6.5-mile radius of Whiteman AFB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

ACE MO E2 Knob Noster, MO [Revised]

Whiteman AFB, MO
(Lat. 38°43′49″N., long. 93°32′53″W.)
Whiteman TACAN
(Lat. 38°44′09″N., long. 93°33′02″W.)
Hawks NDB
(Lat. 38°37′49″N., long. 93°34′21″W.)

That airspace extending upward from 700 feet above the surface of the earth within a 7-mile radius of Whiteman AFB.

* * * * *

Issued in Kansas City, MO, on July 30, 2002.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 02–21136 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S225A]

RIN 1218–ACO3

Notice of a Regulatory Flexibility Act Review of Presence Sensing Device Initiation of Mechanical Power Presses

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of a Section 610 review; request for comments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is conducting a review of the Presence Sensing Device Initiation (PSDI) requirements of the Mechanical Power Presses Standard pursuant to section 610 of the Regulatory Flexibility Act and section 5 of Executive Order 12866 on Regulatory Planning and Review. In 1988, in order to assist small and large businesses in improving productivity while also improving worker protection, OSHA adopted provisions to permit PSDI. However, the PSDI provisions have not been utilized. The purpose of this review is to determine, while protecting worker safety, whether there are ways to modify this standard to make implementation more practical, to reduce regulatory burden on small business and to improve its effectiveness. Written public comments on these and other relevant issues are welcomed.

DATES: Written comments to OSHA must be sent or postmarked by January 27, 2003.

ADDRESSES: You may submit three copies of your written comments to the OSHA Docket Office, Docket No. S225A,

Technical Data Center, Room N–2625, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; telephone (202) 693–2350. If your written comments are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You do not have to send OSHA a hard copy of your faxed comments.

You may submit comments electronically through OSHA's Home Page at *http://ecomments.osha.gov/.* Please note that you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit three copies of the material to the OSHA Docket Office at the above address. When submitting such material to the OSHA Docket Office, you must clearly identify your electronic comments by name, date, subject, and docket number so that we can attach the materials to your electronic comments.

FOR FURTHER INFORMATION CONTACT:

Joanna Dizikes Friedrich, Directorate of Policy, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 693–2400, Fax (202) 693–1641.

SUPPLEMENTARY INFORMATION:

Background

A mechanical power press is a mechanically powered machine that shears, punches, forms or assembles metal or other material by means of cutting, shaping or combination dies attached to slides. A press consists of a stationary bed or anvil, and a slide having a controlled reciprocating motion. The slide, called the ram, is equipped with special punches and moves downward into a die block which is attached to the rigid bed. The punches and the die block assembly are generally referred to as a ''die set.''

The main function of a stamping press is to provide sufficient power to close and open the die set, thus shaping or cutting the metal part set on the die block. The metal part is fed into the die block and the ram descends to perform the desired stamping operation. The danger zone for the operator is between the punches and the die block. This area is referred to as the ''point of operation.''

If the employee's hand is in the point of operation when the press strokes, amputation of the finger, hand or arm is quite possible. Safeguards are needed to prevent or greatly reduce the possibility of this happening. However, there are a significant number of such amputations each year because of failure of safeguards, improper operation or other causes.

OSHA regulates mechanical power presses at 29 CFR 1910.217. OSHA adopted that standard in 1971 based on the 1971 revision of the American National Standards Institute (ANSI) voluntary consensus standard ANSI B11.1, ''Safety Requirements for Construction, Care and Use of Mechanical Power Presses.''

Until 1988, based on the 1971 ANSI Standard, the OSHA standard required manual actuation of a press stroke, to prevent the actuation of a press stroke when the employee's hand was in the point of operation. A typical method of actuation was dual palm buttons set sufficiently far apart to prevent part of the employee's body from being in the point of operation when the press stroked.

A presence sensing device, typically a light curtain, senses when an object, such as a hand, is within its field. The 1971 OSHA standard based on the 1971 ANSI standard permitted presence sensing devices (PSD) to be used as a guard, but it did not permit the PSD to initiate (actuate) the stroke of the press.

Presence sensing device initiation (PSDI) actuates the stroke of the press when the PSD senses that the employee has fed the press and removed the employee's hands and arms from the point of operation. PSDI increases the speed of the operation, consequently improving productivity. Experts also believe, if done correctly, it would be more protective of employees by protecting non-operator employees near the press (who would not be protected by manual actuation alone) and by reducing employee fatigue.

Several European countries permitted PSDI of mechanical power presses in the 1950's, based on government certification of the safety of the system. OSHA granted a temporary variance to Interlock Stamping Company in 1976 to utilize and test PSDI.

In 1982, in order to study PSDI, OSHA contracted with an expert, Mr. Trygve Hauge, and the National Institute of Occupational Safety and Health (NIOSH) contracted with Purdue Research Foundation to study PSDI. Their reports were widely circulated by OSHA and comments were received.

Based on this considerable body of experience, expert views and comments, OSHA proposed to amend 29 CFR 1910.217 to permit PSDI on March 29, 1985 at 50 FR 12700. Those amendments included requirements for designing PSDI systems. They also included requirements that manufacturers certify the system and that an independent organization validate that certification. These provisions are located at 29 CFR 1910.217(h) and Appendixes A, B and C.

The large majority of comments on the proposal supported the provision and believed it was workable. The minority who opposed the proposal were split between those who believed that PSDI was not safe and those who believed fewer requirements were appropriate.

OSHA issued the final rule permitting PSDI on March 14, 1988 at 53 FR 8327. The rule would permit either manufacturer or user associations to set up a validating organization if it had independent member and employee participation. OSHA believed, based on the studies, expert opinions, European experience, experimental variance and comments, that the regulation would substantially improve productivity, better protect workers, and be implemented.

However, PSDI has not been adopted for mechanical power presses. No organization has agreed to validate PSDI installations. PSDI is still widely used in Europe, and it is used for other types of equipment in the United States, where it had not been prohibited.

In addition, there is a much updated ANSI B.ll.1–2001 standard on mechanical power presses. This updated standard does not require certification, but it has a number of requirements for PSDI which are integrated thoughout the standard.

In Europe, the various specific certification requirements for PSDI have been replaced by the European Union Directive on Machinery (Directive 98/37/Ec). This directive covers a broad class of machinery, has many requirements, and requires self certification, but it does not have separate PSDI requirements.

Regulatory Review

The original PSDI rulemaking was, in part, a response to the Regulatory Flexibility Act of 1980, to increase small business options and productivity while protecting workers. However, the goal has not been achieved.

Accordingly, OSHA has decided to review the PSDI provisions of the Mechanical Power Press Standard pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and section 5 of Executive Order 12866 (59 FR 51739, 51739, October 4, 1993). A major goal of the review is to determine whether there are changes that can be made which will encourage the implementation of PSDI, to improve business and, particularly, small business productivity, while protecting workers. OSHA particularly welcomes public comment on this issue as it relied

heavily on expert and public comments in its earlier rulemaking.

The purpose of a review under section 610 of the Regulatory Flexibility Act:

''(S)hall be to determine whether such rule should be continued without change, or should be rescinded, or amended consistent with the stated objectives of applicable statutes to minimize any significant impact of the rule on a substantial number of small entities.''

''The Agency shall consider the following factors:

(1) The continued need for the rule:

(2) The nature of complaints or comments received concerning the rule from the public;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates or conflicts with other Federal rules; and, to the extent feasible, with state and local governmental rules; and

(5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the areas affected by the rule.''

The review requirements of section 5 of Executive Order 12866 require agencies:

''To reduce the regulatory burden on the American people, their families, their communities, their state, local and tribal governments, and their industries; to determine whether regulations promulgated by the [Agency] have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive Order, within applicable law; and to otherwise improve the effectiveness of existing regulations.''

An important step in the review process involves the gathering and analysis of information from affected persons about their experience with the rule and any material changes in circumstances since issuance of the rule. This notice requests written comments on the continuing need for the PSDI rule, its adequacy or inadequacy, its small business impacts, and other and all issues raised by section 610 of the Act and section 5 of the Executive Order. However, it would be particularly helpful for commenters to suggest how the PSDI provisions can be improved or changed to achieve its productivity and worker protection goals.

Some Possible Options

This section discusses several possible options for changing the PSDI requirement so that it will be utilized and its benefits realized. Some of the implications of these options are also presented. There may be other options with various advantages and disadvantages, and there may be additional implications of the options presented.

The public is invited to comment on the options OSHA has presented, other options which the commenter may wish to have considered, and the advantages and disadvantages of the various options. One very important consideration which needs to be discussed is whether an option will lead to the implementation of PSDI while protecting workers. The availability of OSHA regulatory resources to implement an option is a factor, however.

One option would be to make relatively minor changes to the PSDI and validation requirements to reduce the apparent difficulties for its implementation. It has been suggested that eliminating the requirement that no single failure could lead to injury, making some adjustments to the technical requirements, and making it easier for nationally recognized testing laboratories (NRTL's) to become validators may make the implementation of PSDI more likely.

This approach is easier for OSHA to implement since it requires the fewest regulatory resources, raises fewer issues, and would take less time. Suggestions along this line by organizations willing to undertake validation responsibilities are welcome. However, it may be that a manageable number of adjustments to the current approach to PSDI would not lead to its implementation.

A second approach would be to update the mechanical power presses standard to the new ANSI B11.1–2001 standard or something quite similar. PSDI in an integral part of that ANSI standard, and there is no validation requirement. Many in the field believe this updating is long over due, that there would be a range of benefits, and that it would lead to implementation of PSDI. However, this approach would require a major commitment and reallocation of OSHA regulatory resources, and it would take considerable time. It also raises the OSHA priorities question of whether such a large commitment of resources could more effectively be committed to updating other safety standards.

Another approach would be to eliminate the validation requirements and possibly replace it with a self-certification requirement. This is clear as an issue, simple in terms of the language changes to the standard, and may allow the widespread adoption of PSDI. However, OSHA reached the firm conclusion in 1988 that validation was necessary for worker safety in the context of the present mechanical power press standard. A reversal of OSHA position legally requires evidence (which OSHA does not now have in its possession) that worker safety would be protected. OSHA welcomes submission of data on this issue.

Another option would be to replace the current PSDI requirements with the requirements for PSDI in the ANSI B.11.1–2001. This presents technical issues since the current OSHA mechanical power press standard is substantially different than the 2001 ANSI standard. Comments are welcome on whether these technical issues can be resolved and the safety of this approach.

Comments are requested on the above options and other options or variations. Comments are also requested on all other issues relevant to this regulatory review of the PSDI requirements of the mechanical power press standard, pursuant to section 610 of the Regulatory Flexibility Act and section 5 of the Executive Order. Commenters may wish to review the extensive technical information and economic data presented in the preamble to the final PSDI **Federal Register** Notice at 53 FR 8322–8365, March 14, 1988.

Comments must be mailed or submitted by January 27, 2003. Comments should be submitted to the addresses and in the manner specified at the beginning of the notice.

Authority: This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) and Section 5 of Executive Order 12866 (59 FR 51724, October 4,1993).

Signed at Washington, DC, this 21st day of August, 2002.

John Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02–21834 Filed 8–27–02; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Jacksonville 02–066]

RIN 2115–AA97

Security Zones; Ports of Jacksonville, Canaveral, and Fernandina, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent security zones within the Captain of the Port Jacksonville, Florida's area of responsibility. The security zones would prohibit entry into, or movement within, 100 yards around all tank vessels, cruise ships, and military pre-positioning ships when these vessels enter, depart or moor within the ports of Jacksonville, Canaveral, and Fernandina. These security zones are needed to ensure public safety and prevent sabotage or terrorist acts against such vessels in these ports.

DATES: Comments and related material must reach the Coast Guard on or before September 27, 2002.

ADDRESSES: 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 Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, FL 32211, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Drew Casey, Coast Guard Marine Safety Office Jacksonville, at (904) 232–2640, Ext. 105.

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 [COTP Jacksonville 02–066] 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 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 after considering comments received.

Public Meeting

We do not plan to hold a public meeting. However, you may request a meeting by writing to Marine Safety Office Jacksonville at the address under **ADDRESSES** explaining why a meeting would be beneficial. If the Coast Guard determines that a public meeting will aid this rulemaking, a meeting will be held at a time and place announced by separate notice in the **Federal Register**.

Background and Purpose

On September 12, 2001, one day after the September 11 terrorist attacks, the Coast Guard established a temporary rule establishing 100-yard security zones around tank vessels, passenger vessels, and military pre-positioning ships entering, departing, or moored in the ports of Jacksonville and Canaveral. That rule, entitled ''Security Zones; Port of Jacksonville and Port Canaveral, FL'', was published in the **Federal Register** on September 26, 2001 (66 FR 49104) and expired on October 3, 2001.

On October 17, 2001, the Coast Guard published a second temporary rule entitled, ''Security Zones; Port of Jacksonville and Port Canaveral, FL'', in the **Federal Register** (66 FR 52689) continuing these zones until June 15, 2002.

On June 18, 2002, we published another temporary final rule in the **Federal Register**, entitled ''Security Zones; Ports of Jacksonville Canaveral, FL'', extending these security zones until November 15, 2002 (67 FR 41339) to allow us to publish this notice of proposed rulemaking. This temporary final rule would be removed if a final rule is published and effective prior to the November 15, 2002 termination of the temporary final rule.

These security zones are needed to prevent sabotage or terrorist acts against these vessels within the Captain of the Port Jacksonville's area of responsibility. Following the attacks of September 11, 2001, by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorist attacks are likely.

The Coast Guard proposes to establish permanent security zones around tank vessels, passenger vessels, and military pre-positioning ships entering, departing, or moored in the Ports of Jacksonville, Canaveral, and Fernandina as part of a comprehensive port security initiative designed to safeguard human life, vessels and waterfront facilities from sabotage or terrorist acts. These vessels are deemed particularly vulnerable to subversive or terrorist acts, and the consequences of such acts could result in significant loss of property and human life.

Discussion of Proposed Rule

The proposed rule would prohibit persons and vessels from coming within 100 yards of all tank vessels, cruise ships and military pre-positioned ships entering, departing, or moored within the ports of Jacksonville, Canaveral, and Fernandina. No persons or vessels will be allowed to enter or remain within these security zones without the permission of the Captain of the Port. These security zones are activated when the subject vessel passes the St. Johns River Sea Buoy, at approximate position 30°23′35″ N, 81°19′08″ W, when entering the Port of Jacksonville, or passes either Port Canaveral Channel Entrance Buoys #3 or #4, at respective approximate positions 28°22.7′ N, 80°31.8′ W and 28°23.7′ N, 80°29.2′ W, when entering Port Canaveral or passes St. Mary's River Sea Buoy, at approximate position 30°40.8″ N, 81°11.8″ W, when entering the Port of Fernandina. This proposed rule is identical to the temporary final rule currently in effect.

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).

While recognizing the potential impacts to the public, the Coast Guard believes the security zones are necessary for the reasons described above. However, 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. There is generally enough room for vessels to navigate around these proposed security zones. Where such room is not available and security conditions permit, the Captain of the Port will attempt to provide flexibility for individual vessels as needed.

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. This proposed rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit Jacksonville, Canaveral, and Fernandina harbors in the vicinity of tank vessels, cruise ships, and military pre-positioning ships. This proposed rule would not have a significant impact on a substantial number of small entities because the zones are limited in size, leaving in most cases ample space for vessels to navigate around them. The zones will not significantly impact commercial and passenger vessel traffic patterns, and mariners will be notified of the proposed zones via Local Notice to Mariners and marine broadcasts. Where such room is not available and security conditions permit, the Captain of the Port will attempt to provide flexibility for individual vessels to transit through the proposed zones as needed.

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 affect it economically.

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 proposed 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 LTJG Drew Casey, Marine Safety Office Jacksonville, at (904) 232–2640, Ext. 105.

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. Although 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 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. 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

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket 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, and 160.5; 49 CFR 1.46.

§ 165.T–07–060 [Removed]

2. Remove § 165.T–07–060.

3. Add § 165.759 to read as follows:

§ 165.759 Security Zones; Ports of Jacksonville, Canaveral, and Fernandina, FL.

(a) *Location.* Moving and fixed security zones are established 100 yards around all tank vessels, cruise ships, or military pre-positioned ships entering, departing, or moored in the ports of Jacksonville, Canaveral, or Fernandina.

These security zones are activated when the subject vessel passes the St. Johns River Sea Buoy, at approximate position 30°23′35″ N, 81°19′08″ W, when entering the Port of Jacksonville, or passes either Port Canaveral Channel Entrance Buoys #3 or #4, at respective approximate positions 28°22.7′ N, 80°31.8′ W and 28°23.7′ N, 80°29.2′ W, when entering Port Canaveral or passes St. Mary's River Sea Buoy, at approximate position 30°40.8′ N, 81°11.8′ W, when entering the Port of Fernandina.

(b) *Regulations.* (1) In accordance with the general regulations in §§ 165.30 and 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port Jacksonville.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, State, and Federal law enforcement vessels.

(3) No person may enter the waters within the boundaries of these security zones unless previously authorized by the Captain of the Port, Jacksonville or his authorized representative.

(c) *Definition.* As used in this section, *cruise ship* means a passenger vessel greater than 100 feet in length that is authorized to carry more than 12 passengers for hire, except for a ferry.

(d) *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.

Dated: August 13, 2002.

M.M. Rosecrans,

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

[FR Doc. 02–21919 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–085b; A–1–FRL–7268–8]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Rate-of-Progress Emission Reduction Plans for the Boston-Lawrence-Worcester Serious Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes 15 percent and post-1996 rate-of-progress plans for the Massachusetts portion of the Boston-Lawrence-Worcester serious ozone nonattainment area. The intended effect of this action is to propose approval of this SIP revision as meeting the requirements of the Clean Air Act

DATES: Written comments must be received on or before September 27, 2002.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the state submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA and at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Robert McConnell, (617) 918–1046.

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal 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 EPA receives no adverse comments in response to this action rule, we contemplate no further activity. If EPA receives adverse comments, we will withdraw the direct final rule and will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: August 13, 2002.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 02–21941 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[SIP Nos. MT–001–0042b, MT–001–0044b, MT–001–0045b; FRL–7261–2]

Approval and Promulgation of Air Quality Implementation Plans for the State of Montana; Revisions to the Administrative Rules of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Governor of Montana on April 30, 2001, May 21, 2001 and December 20, 2001. The April 30, 2001 and December 20, 2001 submittals revise the State's Administrative Rules of Montana (ARM) by updating Incorporation by Reference rules. The May 21, 2001 submittal repeals the State's Sulfur Oxide—Primary Copper rule. We are also announcing that on February 1, 2002, we updated the delegation of authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State. Finally, the Governor's April 30, 2001 submittal contains other SIP revisions which will be addressed separately. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views these as noncontroversial SIP revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions

of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing on or before September 27, 2002.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA, Region 8, (303) 312–6144.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: August 13, 2002.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. 02–21945 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 161–1161; FRL–7269–1]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: EPA proposes to approve a revision to the Missouri State Implementation Plan (SIP) and Operating Permits Program. This revision pertains to the state's part 70 operating permits rule. Approval of this revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revision.

In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant 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 action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by September 27, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: August 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 02–21943 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7269–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Pinette's Salvage Yard Superfund Site from the National Priorities List.

SUMMARY: EPA-New England announces the intent to delete the Pinette's Salvage Yard Superfund Site (Site or Pinette's Site), located in Washburn Maine, from the National Priorities List (NPL) and requests public comment on this proposed action.

The NPL constitutes appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA and the State of Maine, through the Department of Environmental Protection, have determined that all appropriate response actions under CERCLA have been completed. However, this decision does not preclude future actions under Superfund.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before September 27, 2002.

ADDRESSES: Comments may be mailed to Almerinda Silva, Remedial Project Manager, U.S. Environmental Protection Agency-New England, One Congress Street, Suite 1100 (HBT), Boston, Massachusetts 02114–2023, (617) 918–1246, Fax (617) 918–1291, e-mail: *silva.almerinda@epa.gov*.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. Environmental Protection Agency-New England Records Center, One Congress Street, Suite 1100 (HBS), Boston, Massachusetts 02114–2023, (617) 918–1440 or 1–800–252–3402-toll-free, Monday through Friday—9 a.m. to 5 p.m.; and Site Repository—Washburn Town Hall, Main Street, Washburn Town Hall, Main Street, Washburn, ME 04786, telephone (207) 455–8485.

FOR FURTHER INFORMATION CONTACT: Almerinda Silva, Remedial Project Manager, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (HBT), Boston, Massachusetts 02114–2023, (617) 918–1246, Fax (617) 918–1291, e-mail: *silva.almerinda@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion

I. Introduction

EPA-New England announces its intent to delete the Pinette's Salvage Yard Superfund Site in Washburn Maine, county of Aroostook, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation

and Liability Act (CERCLA) of 1980, as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. EPA and the State of Maine, through the Department of Environmental Protection, have determined that the remedial action for the Site has been completed. However, this deletion does not preclude future actions under Superfund.

EPA will accept comments on the proposal to delete this Site for thirty (30) days after publication of this documentation in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures EPA is using for this action. Section IV discusses the Pinette's Salvage Yard Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that a release may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria has been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. In the case of the Pinette's Site, Five-Year Reviews will be performed since trace levels of hazardous substances (PCBs) remain in groundwater at the Site. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without the application of the hazard ranking system.

III. Deletion Procedures

The following procedures were used for the intended deletion of the Site:

(1) All appropriate response under CERCLA has been implemented.

(2) The State of Maine has concurred with proposed deletion decision.

(3) Concurrently with this publication a notice has been published in the local newspapers and has been distributed to the appropriate federal, state, and local officials and interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete.

(4) All relevant documents have been made available in the local Site information repositories.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional Office.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

The Pinette's Salvage Yard Superfund Site is located on Gardner Creek Road (a.k.a. Wade Road) approximately one mile southwest of the Town of Washburn, Aroostook County, Maine, in the northeastern corner of the State. The Site is located in a rural farming area. A portion of the Site has been used as vehicle repair and salvage yard. This portion of the Site is situated within the parcel of land, currently owned by Roger and Cynthia Pinette (granted with warranty covenants as joint tenants), which consists of approximately 9.45 acres.

Site History

In June 1979, three electrical transformers from Loring Air Force Base located near Limestone, Maine, were removed from the base under a written agreement with a private electrical contractor. Allegedly, the transformers were brought to Pinette's Site where they apparently ruptured while being removed from the delivery vehicle. Approximately 900 to 1,000 gallons of dielectric fluid containing polychlorinated biphenyls (PCBs) spilled directly onto the ground.

In April 1980, Maine DEP determined that the Site was contaminated with PCBs and associated volatile organic contaminants (VOCs). Additional sampling by Maine DEP in August 1981 and EPA in May 1982 confirmed the presence of PCB contamination at the Site. In December 1982, the Site was placed on the National Priorities List (NPL).

On October 4, 1983, EPA authorized an Immediate Removal Action (IRA) for the Pinette's Site. Approximately 1,050 tons (800 cu.yds.) of PCB-contaminated soil and assorted debris were removed for disposal during the period from October 4 to November 4, 1983. The IRA was performed to excavate those soils grossly contaminated by PCBs (*i.e.*, soils containing 50 parts per million (50 ppm) or greater of PCBs, as determined by on-site analysis). Those soils that were excavated were then transported to the Model City, New York secure hazardous waste landfill facility.

In 1985, a Deletion Remedial Investigation (DRI) was initiated at the Pinette's Site to determine if any residual PCB contamination existed and whether this residual contamination was reduced sufficiently to warrant the deletion of the Site from the (NPL). This investigation resulted in the determination by EPA, in consultation with Maine DEP, that the Site was not suitable for deletion from the NPL. The results of the DRI were released to the public in October 1987. The DRI revealed additional contamination and thus triggered a need for additional studies.

Remedial Investigation and Feasibility Study (RI/FS)

Based on the levels of residual PCB contamination discovered during the DRI, and in consultation with Maine DEP, EPA determined that a Supplemental Remedial Investigation (SRI) was warranted at the Pinette's Site.

The Supplemental RI was performed using a two-phased approach. Phase I and Phase II field investigations were conducted to address any outstanding data requirements and objectives, so that the data would be of sufficient quality and quantity to support the preparation of a Feasibility Study (FS). The Phase I field investigations were performed from September 1987 through November 1987. Phase II field activities were completed in November 1988. The Final Supplemental Remedial Investigation and Public Health Evaluation Report (Ebasco, 1989a), and the Draft Final Feasibility Study Report (Ebasco, 1989b) were distributed for public comment in March 1989.

Elevated concentrations of PCBs were detected in surface and subsurface soils at the Site. Detectable concentrations of PCBs, benzene, chlorobenzene, 1,4-dichlorobenzene, 1,2,4-trichlorobenzene, and chloromethane were also identified within both the shallow and deep till aquifers at the Site (Ebasco, 1989a). These detectable groundwater concentrations of organic chemicals were found to be localized within and slightly downgradient of the spill area (in the vicinity of well cluster 5), but north of Gardner Creek Road. No detectable concentrations of PCBs were identified in filtered samples obtained at the Site, although PCBs were detected in unfiltered samples. The distribution of PCBs detected in the groundwater was limited only to the general spill area.

Record of Decision Findings

On May 30, 1989, the EPA signed a Record of Decision (ROD) for the Pinette's Salvage Yard Superfund Site. The cleanup approach, selected in the ROD, for the Site included two primary components: Source Control and Management of Migration.

The Source Control component (as amended in June 1993) has been completed. The Source Control component of the 1989 ROD originally called for on-site solvent extraction treatment and off-site incineration of contaminated soils, but was amended in 1993 for off-site land disposal and off-site incineration. Solvent extraction technologies proved ineffective in efficiently extracting PCBs from site soils.

The 1993 ROD Amendment recognized the infeasibility of solvent extraction to remediate soils within the required time frames. A new approach was developed which involved the off-site disposal of soil contaminated with 5 ppm ≤PCBs <500 ppm in a secure Toxic Substances Control Act (TSCA)—permitted landfill, and the incineration of soil contaminated with PCBs ≥500 ppm at a TSCA-permitted off-site facility.

The Management of Migration (MOM) component of the 1989 ROD required that contaminated groundwater containing concentrations above specified target cleanup goals be extracted from the ground and treated on-site using filtration and carbon adsorption. The 1989 ROD required active groundwater treatment to reduce the concentration of VOCs to their cleanup goals as a means of reducing the migration of PCBs.

The Management of Migration portion of the selected remedial action was designed primarily to provide adequate protectiveness to human health from effects associated with potential future use of on-site groundwater, if left untreated. This was and is especially important since residents living in the immediate vicinity of the Site use residential well water as a potable drinking water source and no municipal water supply system currently serves these residents. Additionally, the continued presence and/or migration of the other organic contaminants in the on-site groundwater could potentially mobilize the relatively immobile particulate-bound PCBs also present in the groundwater.

In 1996, EPA issued an Explanation of Significant Differences (ESD) for groundwater at the Site indicating that monitoring results subsequently demonstrated that the primary objective of the Management of Migration component of the ROD (to reduce the migration of PCBs) was achieved without the need for active treatment. Thus, the ESD concluded that there was no need to actively treat the groundwater and that institutional controls should be established on-site to prevent the installation of domestic wells.

Characterization of Risk

The risk assessment performed as part of the RI for existing and future use scenarios determined that unacceptable risks existed from exposure to PCBs in soils and PCBs, VOCs, and lead in groundwater. The primary exposure pathways for both existing and future land use (residential) that showed unacceptable risk included: ingestion and dermal contact with PCBs in soils and ingestion of PCBs, VOCs and lead in groundwater.

Response Actions

The 1989 ROD identified response actions for site soils and groundwater.

Soils

In August 1989, EPA issued the remedial design work assignment to its fund lead contractor, Ebasco Services Incorporated. The remedial design was complete and submitted to EPA in June 1990. EPA awarded the remedial action contract in July 1990 to Ebasco Services Incorporated, who then awarded Stevenson Environmental Services, Inc. a remedial action subcontract in October 1990.

On-site activities (specifically the initial excavation of the contaminated soil) began in July 1991. EPA's original approach for cleaning up contaminated soil at the Site consisted of the use of a solvent extraction system. The solvent extraction company initially hired to treat the Pinette's Site soil committed to deliver a fully fabricated unit to the Site. By the end of 1991, the company had still not delivered the necessary equipment. A second company was hired to install an alternate solvent extraction technology unit in April 1992 and a solvent extraction unit was delivered to the Site in June of 1992. Numerous mechanical and process problems ensued. By November 1992, only 56 cubic yards of soil contaminated with 5 ppm ≤ PCBs < 50 ppm had been treated to meet the objectives of the ROD. Of these 56 cubic yards, 42 cubic yards contained high levels of residual solvent. These soils required additional measures to reduce the solvent levels to acceptable levels for replacement in the ground. Work had progressed in other areas of the remediation during 1992. Approximately 281 cubic yards of soil contaminated with PCBs ≥ 50 ppm was excavated and incinerated and 440,000 gallons of contaminated groundwater was treated.

As previously noted, the 1993 ROD Amendment recognized the infeasibility of solvent extraction within the required time frames. A new approach was developed which involved the disposal of soil contaminated with 5 ppm ≤PCBs < 500 ppm in a secure TSA-permitted landfill, and the incineration of soil contaminated with PCBs ≥500 ppm at a TSA-permitted off-site facility. Soil remediation at the Site was continued during 1993 and completed in early 1994 using excavation and off-site disposal. On September 1994, a Remedial Action Report was submitted signifying successful completion of construction activities.

At the time of completion of the Source Control remedy, the concrete pad used for staging response activities was left at the Site. Supplemental PCB sampling of the concrete pad was conducted in June 2001. Risk

assessment evaluation of the sampling results confirmed that the pad poses no significant risks at the Site.

Groundwater

The Remedial Design for the Pinette's Site established performance standards for contaminated groundwater treatment based on the State of Maine, Bureau of Health Maximum Exposure Guidelines for drinking water. In order to meet these standards, during Source Control remediation work, the open excavation site was dewatered and the water was treated by flocculation, precipitation of suspended solids, filtration, and carbon adsorption.

Groundwater sampling data collected during the MOM Pre-design studies (1993, 1994 and 1995) following the completion of the Source Control remedy indicated that the concentrations of VOCs had decreased to below or near the cleanup level established in the 1989 ROD. Decreases in VOC levels were attributable to the natural attenuation/degradation of contaminants, to the extraction and treatment of over one million gallons of contaminated groundwater during Source Control remedial activities, and to improved groundwater sampling techniques.

The 1989 ROD required active groundwater treatment to reduce the concentration of VOCs to their ROD cleanup levels as a means of reducing the migration of PCBs. The Pre-design monitoring results demonstrated that the primary objective of the Management of Migration component of the ROD had been achieved—PCB migration had been sufficiently reduced. The concentrations of VOCs were already below their cleanup levels. Furthermore, the migration of PCBs was sufficiently reduced; downgradient wells had not shown any contamination. Consequently, the ESD issued in 1996, determined that there was no need to actively treat the groundwater.

The ESD also noted, that in monitoring wells, the maximum concentration of lead detected in unfiltered samples since EPA began using low flow sampling in 1995 was 14.5 ppb, below the cleanup level (as amended by the ESD) of 15 ppb. Also as indicated in the ESD, the maximum concentration of PCBs in unfiltered monitoring well samples detected since the low flow sampling began was 8.5 ppb, which was still above the ROD cleanup level of 0.5 ppb. VOCs for which ROD cleanup levels had been established for the Site were not detected in unfiltered samples above cleanup levels since low flow sampling began.

The ESD recognized that despite the noted improvements, groundwater at the Pinette's Site still contained concentrations of PCB contaminants which would pose an unacceptable risk if ingested. Therefore, to prevent the ingestion and use of contaminated groundwater, the ESD indicated that institutional controls (*e.g.*, deed restrictions and/or easements) would be established to prevent the installation of domestic wells on the Site. In January 2002, a modeling effort was performed to evaluate potential future PCB migration in groundwater at the Pinette's Site. Results of this modeling effort supported the appropriateness of the institutional controls which have been implemented at the Site. Institutional controls in the form of a declaration of restrictive covenant was established to prevent the installation of domestic wells within the restricted area.

Finally, the ESD required that Five-Year Reviews of the Site be conducted to ensure that the remedy remained protective, so long as hazardous substances, pollutants or contaminants remain at the Site above levels that allow for unlimited use and unrestricted exposure. At a minimum, groundwater samples will continue to be collected from the monitoring well network to support these Five-Year Reviews.

Cleanup Standards

Remedial action cleanup activities at the Site were consistent with the NCP, the ROD, the ROD Amendment, and the ESD, and in conjunction with institutional controls for groundwater use, provides protection to human health and the environment. Remedial Action plans for all phases of construction included appropriate quality assurance plans and incorporated all EPA and State quality assurance and quality control procedures and protocols (where necessary). All procedures and protocols were followed for soil, sediment, water and air sampling during the Remedial Action. EPA analytical methods were used for the confirmatory and monitoring samples during all Remedial Action activities. Appropriate EPA analytical methods were also used for all Pre-Design and Post-ESD groundwater monitoring at the Site. EPA has determined that the analytical results, having been validated, are accurate to the degree needed to assure satisfactory execution of the Remedial Action, and confirm the findings of the groundwater monitoring programs. These results show that the cleanup standards for PCBs in soils have been met, and are consistent with the ROD, ROD Amendment, and ESD and also Remedial Design plans and specifications. PCBs do remain in groundwater above the ROD cleanup level.

Operation and Maintenance

Soils at the Pinette's Site have been cleaned up under the Source Control remedy, in accordance with the ROD and its Amendment. There will be no need for operation and maintenance activities for Source Control at the Site.

There is no ongoing groundwater treatment at the Site, and no associated O&M requirements. However, as required by the ESD, institutional controls have been implemented at the Site to restrict groundwater use. Also as required by the ESD, Five-Year Reviews will be performed at the Site. Groundwater monitoring will be performed at the Site, as necessary to support these reviews.

With respect to the Management of Migration remedy, the State will be responsible for enforcing the terms of the declaration of restrictive covenant. Enforcing this declaration of restrictive covenant shall constitute the operation and maintenance of this portion of the remedy.

Five-Year Review

PCBs remain in groundwater at certain locations at the Pinette's Site, at concentrations that pose an unacceptable risk to human health if ingested. Pursuant to the ESD, institutional controls have been implemented to restrict groundwater use. In conjunction with institutional controls, the ESD also required the performance of Five-Year Reviews. Therefore, pursuant to CERCLA section 121(c) and as provided in OSWER Directive 9355.7–03 B–P, June 2001, Five-Year Reviews will be necessary, so long as hazardous substances, pollutants or contaminants remain at the Site above levels that allow for unlimited use and unrestricted exposure.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

Informational public meetings were held near the Site to keep local residents informed of response activities. The first meeting was held in March 1989 prior

to issuance of the original ROD. Representatives from EPA and Maine DEP were present. A public hearing was also held in April 1989. Subsequently, EPA held an informational meeting in March 1993 at the time of issuance of the amended ROD for the Site. In accordance with section 117(d) of CERCLA, the ESD became part of the Administrative Record which is available for public review at both EPA-New England Record Center in Boston, Massachusetts and the Washburn Town Hall in Washburn Maine.

Applicable Deletion Action

One of the three criteria for site deletion specifies that EPA may delete a site from the NPL if ''all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.'' 40 CFR 300.425(e)(1)(ii). EPA, with the concurrence of the State of Maine, through the Department of Environmental Protection, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion of this site from the NPL. Documents supporting this action are available from the docket.

State Concurrence

In a letter dated July 15, 2002, the Maine Department of Environmental Protection concurs with the proposed deletion of the Pinette's Salvage Yard Superfund Site from the NPL.

Dated: August 22, 2002.

Robert W. Varney,

Regional Administrator, U.S. EPA-New England.

[FR Doc. 02–22080 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020726183–2183–01; I.D. 071702F]

RIN: 0648–AQ12

Fisheries of the Northeastern United States; Management of the Atlantic Hagfish Fishery

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

ACTION: Notice of denial of petition for rulemaking; advance notice of proposed rulemaking to establish a control date for the hagfish fishery; request for comments.

SUMMARY: NMFS announces its decision to deny the rulemaking requested in a Petition for Rulemaking submitted by Mr. William R. Palombo, Nippert Fishing Corporation (Petitioner). On January 18, 2002, the Petitioner submitted a Petition requesting that NMFS immediately implement emergency measures to limit entry into the Atlantic hagfish fishery. At present, the Atlantic hagfish fishery is not regulated under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

NMFS also announces that it is considering, and is seeking public comment on, proposed rulemaking to control future access to the hagfish (*Myxine glutinosa*) resource should a management regime be developed and implemented under the Magnuson-Stevens Act that would limit the number of participants in the fishery. This announcement is also intended, in part, to promote awareness of potential eligibility criteria for future access and to discourage speculative entry into the fishery while the New England Fishery Management Council (Council) and NMFS consider whether to control access to the hagfish fishery and, if they decide in favor of controlling access to the hagfish fishery, which methods should be used.

DATES: The date of publication of this notification, August 28, 2002 will be known as the ''control date'' and may be used for establishing eligibility criteria for determining levels of future access to the hagfish fishery subject to Federal authority. Comments on the notice of a control date must be received by 5 p.m. EST September 27, 2002. Comments will not be accepted via email.

ADDRESSES: Comments should be directed to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930. The envelope should be marked ''Hagfish Control Date Comments.''

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, (978) 281–9104, fax (978) 281–9135, e-mail Myles.A.Raizin@Noaa.gov.

SUPPLEMENTARY INFORMATION:

Finding on Petition for Rulemaking

On April 5, 2002, NMFS published a Notice of Receipt of Petition for Rulemaking requesting public comment on a Petition for Rulemaking submitted by the Petitioner (67 FR 16362). NMFS also solicited information on Atlantic hagfish biology and ecology. The Petitioner had requested that NMFS immediately implement emergency measures to limit entry into the Atlantic hagfish fishery. A full discussion of the Petitioner's request is included in the preamble to the Notice of Receipt of Petition for Rulemaking and is not repeated here.

Comments and Responses

Four comment letters were received during the comment period for this action, which ended on May 6, 2002. Three commentors favored the petition. One was from the original petitioner, who restated the points made in his Petition. The other two in favor were from an Atlantic hagfish vessel owner and from one group of scientists from the Shoals Marine Laboratory who have studied Atlantic hagfish. One opposing comment was received from an Atlantic hagfish processor.

Comment 1: The scientists who commented noted that published scientific studies suggest that Atlantic hagfish are likely vulnerable to overfishing since reproductive capacity of hagfish is extremely limited. They note that females of reproductive age produce a single crop of 10 to 20 eggs, at most, once per year. They also note that there is high mortality of discarded Atlantic hagfish because animals die from thermal and salinity shock in surface water. They note they have sampled the same research site since 1987 and believe their findings indicate the area was quickly depleted after it was targeted by Atlantic hagfish vessels in 1996.

Response: NMFS recognizes that there are valid reasons for a management program to be initiated for Atlantic hagfish. However, there is insufficient data available to conclude that the status of the Atlantic hagfish resource merits emergency action by the Secretary of Commerce. NMFS is publishing a control date to discourage speculative entry to the fishery and will urge the Council to develop a fishery management plan. The New England Fisheries Science Center, NMFS, will conduct a Stock Assessment Review Committee (SARC) for Atlantic hagfish in June, 2003. The SARC will be tasked with determining stock size and abundance and estimating biological reference points. This information can be used by the Council to develop management measures.

Comment 2: An Atlantic hagfish processor notes that in order to redirect fishing effort off of intensively fished traditional Atlantic hagfish grounds and obtain better quality product, he has relied on larger vessels that can transit further to other fishing grounds this

year. He notes that larger deck spaces allow boats to cull out small individuals and return them to the ocean alive. He also notes he has seen improvement in product quality due to the refrigeration capabilities of larger vessels. He believes that a combination of larger and smaller vessels is desirable for the fishery. He believes that an FMP should be developed, but with the aid of reliable scientific data based on stock assessments. He believes it would be a disservice to the fishery to enact management measures, particularly through an emergency action, without data and questions the legality of emergency action without evidence that an emergency exists.

*Response:*NMFS believes that a control date is an appropriate first step toward management because it provides a tool for the Council should it decide it is necessary to include controlled entry in the management program for the Atlantic hagfish fishery. The manner in which the control date would be utilized would be determined in the future and would not necessarily distinguish between vessels of different sizes.

Denial of the Petition

There is no evidence of an emergency regarding the fishery that needs to be addressed. NMFS believes that emergency action is inappropriate because there is no evidence that, if determined necessary, there is sufficient time to develop management measures through the Magnuson-Stevens Act process would result in irreparable harm to the resource. NMFS will urge the Council to start work on a fishery management program for hagfish. In the meantime, publication of the control date will discourage speculative entry into the fishery and provide time for the Council to consider the issues concerning the stock in a full public process.

Advance Notice of Proposed Rulemaking to Establish a Control Date

While there currently is no fishery management plan (FMP) for Atlantic hagfish, NMFS will urge the Council to develop one. As part of that FMP, a controlled access system may be required in the hagfish fishery to match fishing capacity to the sustainable harvest level. The limitation of entry into the fishery may be based on levels of participation or other criteria such as domestic harvest capacity.

The control date is intended to discourage speculative entry into the Atlantic hagfish fishery while controlled access schemes are developed by the Council. The control date will help to distinguish established participants from speculative entrants to the fishery. Although participants are notified that entering the fishery after the control date will not ensure them of future access to the Atlantic hagfish resource on the grounds of previous participation, additional and/or other qualifying criteria may also be applied. The Council may choose different and variably weighted methods to qualify participants based on the type and length of participation in the fishery.

This advance notice of proposed rulemaking establishes August 28, 2002, as the control date for potential use in determining historical or traditional participation in the Atlantic hagfish fishery. Consideration of a control date does not commit the Council or NMFS to develop any particular management regime or criteria for participation in this fishery. The Council or NMFS may choose a different control date, or may choose a management program that does not make use of such a date.

Fishers are not guaranteed future participation in the fishery, regardless of entry date or intensity of participation in this fishery before or after the control date. The Council and NMFS may choose to give variably weighted consideration to fishers active in the fishery before and after the control date. The Council and NMFS may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council or NMFS will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notice also advises the public that, if in the future the Councils or NMFS undertake a controlled entry or limited entry program, evidence of prior participation in the hagfish fishery in Federal waters may be required as a means of demonstrating eligibility.

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

Dated: August 21, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 02–21984 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 082002B]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting notification.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3–day Council meeting from September 10 through September 12, 2002, to consider actions affecting New England fisheries in the U.S. exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, Wednesday, and Thursday, September 10, 11, and 12, 2002. The meeting will begin at 9 a.m. on Tuesday and at 8:30 a.m. on Wednesday and Thursday.

ADDRESSES: The meeting will be held at the Providence Biltmore Hotel, 11 Dorrance Street, Kennedy Plaza, Providence, RI 02903; telephone (401) 421–0700. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council, (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, September 10, 2002

Following introductions, newly appointed and re-appointed Council members will take the Oath of Office and the Council will elect its 2002–2003 slate of officers. Late in the morning session there will be a presentation by the State Department liaison on the European Union's request to negotiate a governing international fisheries agreement (GIFA), with particular implications for the Atlantic herring fishery. There also will be a briefing on the status of the U.S. National Plan of Action under the United Nations Food and Agriculture Organization's International Plan of Action to address Illegal, Unregulated, and Unreported Fishing. During the afternoon session there will be a presentation by NMFS Office of Law Enforcement about its Vessel Monitoring System (VMS)

program. There also will be a discussion, led by the Council's VMS Committee, on recommendations concerning consistency of VMS requirements across fishery management plans (FMPs). This will be discussed in the context of a change to the Atlantic Herring FMP that would require evidence of a VMS onboard the vessel prior to issuance of a herring fishing permit, thereby creating consistency with other Council management plans that require a VMS. The Enforcement Committee will then report on a proposal to prohibit fishermen who hold Federal fisheries permits from selling fish to an unlicenced dealer. This committee also will brief the Council on its review of management measures proposed for inclusion in the Northeast Multispecies and Atlantic Sea Scallop FMPs, and the proposed Northeast Skate FMP from an enforcement perspective, the enforceability of general category landings restrictions, particularly the state waters only exemption for Atlantic sea scallops. The final agenda item for the day will consist of a presentation by NMFS staff on streamlining the FMP adjustment and monitoring process and a discussion of potential alternatives that would promote regulatory efficiency.

Wednesday, September 11, 2002

The Council meeting will reconvene on Wednesday with possible action on groundfish concerning the review and approval of draft text for the status determination criteria section to be included in the Northeast Multispecies FMP Amendment 13 Draft Supplemental Environmental Impact Statement (DSEIS). Council staff also will brief the Council on progress to date on preparation of the Amendment 13 DSEIS to clarify any associated issues related to that work. The Council's Research Steering Committee will then review recent committee activities, including the status and content of recent and future NMFS' Requests for Proposals to solicit collaborative research projects. The Council's Whiting Committee will present a report, including a presentation of 2002 Stock Assessment and Fishery Evaluation Report for small mesh multispecies, and a discussion of recommendations from the Whiting Monitoring Committee. The committee intends to approve initial action on Framework 37 to the Northeast Multispecies FMP. The Council will select management options for analysis that may modify or eliminate the Year 4 default measure for small mesh multispecies and may establish new exempted fishery areas for whiting within the Gulf of Maine/Georges Bank Regulated Mesh Area. The Mid-Atlantic and New England Councils will hold a scoping hearing on issues related to Amendment 2 to the Monkfish FMP. The Councils are considering revising the monkfish limited access permit system in Amendment 2 to allow vessels that landed monkfish after the original control date in the southern end of the range of the fishery to qualify for permits. The public will have an opportunity to provide oral comments at this time.

Thursday, September 12, 2002

The meeting will reconvene on Thursday with reports on recent activities from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. This will be followed by a brief period for public comments on any item relevant to Council business, but not otherwise listed on the agenda. The Habitat Committee will request that the Council consider its recommendations on alternatives to minimize the effects of scallop fishing on Essential Fish Habitat for inclusion in Amendment 10 to the Atlantic Sea Scallop FMP and for analysis in the associated DSEIS. During the final afternoon of the meeting, the Scallop Committee will ask the Council to consider approval of final action on Framework Adjustment 15, the annual adjustment to the Atlantic Sea Scallop FMP. Options under consideration for the 2003 fishing year include, but are not limited to, an adjustment to the annual day-at-sea allocations for vessels with full-time, part-time, and occasional limited access permits, ranging from 45 full-time days (no action) to 120 full-time days (status quo) and other amounts that meet the FMP's mortality objective; continuing the controlled access program for one or both of the Hudson Canyon and Virginia Beach/North Carolina Areas (VA/NC) or no action (re-opening the areas to general scallop management). The controlled access program changes include raising the scallop possession limit to 21,000 pounds meat weight and allocating trips to limited access vessels based on a high or low mortality target for these rebuilt areas. Other provisions of the controlled access program would continue unchanged. A day-at-sea tradeoff exemption procedure for vessels that fish in the Hudson Canyon and VA/NC Areas controlled access program, but whose trips are terminated early due to weather, illness, equipment failure or other reasons also will be considered. The Council meeting will adjourn once any other outstanding business is addressed.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice. Any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act will be addressed, provided that the public has been notified of the Council's intent to take final action to address the emergency.

The New England Council will consider public comments at a minimum of one Council meeting before making recommendations to the NMFS Regional Administrator on any framework adjustment to a fishery management plan. Documents pertaining to framework adjustments are available for public review 7 days prior to a final vote by the Council.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: August 21, 2002.

Virginia M. Fay,

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

[FR Doc. 02–21809 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 167

Wednesday, August 28, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Pacific Northwest Region Invasive Plant Project; Colville, Okanogan, Wenatchee, Mt. Baker-Snoqualmie, Olympic and Gifford Pinchot National Forests in Washington, and Columbia River Gorge National Scenic Area, Malheur, Fremont, Deschutes, Ochoco, Rogue River, Siskiyou, Mt. Hood, Siuslaw, Umpqua, Umatilla, Willamette, Wallowa-Whitman, and Winema National Forests in Oregon

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) to amend Forest Plan direction to enhance our ability to protect native ecosystems from invasive, non-native plants. This action will build on the Region's existing program by improving our ability to prevent the introduction of invasive plant species, improve detection and rapid response to new infestations, and control of existing populations.

DATES: Comments concerning the scope of this analysis should be received no later than September 30, 2002.

ADDRESSES: Submit written comments to Natural Resource Staff; Invasive Plant Team, Forest Health Protection Group; Pacific Northwest Regional Office, P.O. Box 3623, Portland, OR 97208–3623.

FOR FURTHER INFORMATION CONTACT: Eugene Skrine, Team Leader, Invasive Plant Project, Pacific Northwest Regional Office, PO Box 3623, Portland, OR 97208–3623 or by calling (503) 326–4310.

SUPPLEMENTARY INFORMATION:

Need for the Proposal

Approximately 400,000 acres of National Forests and Grasslands are reported to be degraded in the Pacific Northwest Region by infestations of invasive, non-native plants. This infestation has a high potential to expand and further degrade forest and grasslands. Invasive plants spread across landscapes, unimpeded by ownership boundaries. Infested areas represent potential seed sources for continuation of the invasion on neighboring lands. Infestations can be eliminated, controlled or exacerbated through utilization of specific management practices. Invasive species create a host of environmental and other effects, most of which are harmful to native ecosystem biodiversity and processes, including:

- Displacement of native plants.
- Reduction in functionality of habitat and forage for wildlife and livestock.
- Threats to populations of threatened, endangered and sensitive species.
- Alteration of physical and biological properties of soil, including productivity.
- Changes to the intensity and frequency of fires.
- High monetary cost of controlling/managing invasive plants.
- Loss of recreational opportunities.

Current regional management direction addressing invasive plant prevention, early detection, treatment, inventory and monitoring, and subsequent site restoration needs to be expanded and clarified. There is a critical need for the development of clear, and comprehensive Forest Plan standards and guidelines that allow more timely and more effective management and prevention practices for projects and programs in the Pacific Northwest Region.

Executive Order 13112 Invasive Species (Feb. 1999) provides direction that Federal agencies shall: (1) Prevent the introduction of invasive species; (2) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (3) monitor invasive species populations accurately and reliably; (4) provide for restoration of native species and habitat conditions in ecosystems that have been invaded. This EIS and subsequent site-specific NEPA analysis will implement this Executive Order.

The 1988 Vegetation Management EIS and Record of Decision (ROD), and the 1989 Mediated Agreement focused on competing vegetation in forest plantations. The ROD identifies prevention as the preferred strategy for vegetation management, and provides direction for analyzing prevention strategies for projects. However, neither the ROD, nor the Mediated Agreement, thoroughly addressed the numerous issues specific to preventing and treating invasive plants, nor do they identify standards or practices that could be applied to prevent invasive plants from becoming established.

The 1988 Record of Decision (ROD) specified and specifically limited the type and range of tools available for the treatment of competing and unwanted vegetation. Neither the ROD nor the Mediated Agreement provides a mechanism for adapting its requirements and adopting new technologies. The use of biological agents and prescribed fire as control mechanisms were not fully examined. Herbicides approved for use in the ROD were developed before 1980. Today, new herbicides are available that appear to be more effective on target plants, and potentially less hazardous to humans and wildlife.

Given the seriousness of the current invasive species situation, National Forest managers need more operational flexibility with reduced process, greater cost-effectiveness and timely responsiveness, without increasing environmental risks. A new roadmap for prevention and site restoration, as well as a new and expanded toolbox, including; biological, fire, mechanical, manual, cultural, and chemical tools, are critical to successfully managing our invasive plant problem. New Forest Plan standards and guidelines will significantly enhance our ability to deal effectively with this threat to the integrity and productivity of the National Forests in the Pacific Northwest Region.

Proposed Action

The USDA Forrest Service, Pacific Northwest Region, proposes to amend Forest Plan direction to enhance our ability to protect native ecosystems from invasive, non-native plants. This action will build on the Region's existing program by improving our ability to prevent the introduction of invasive plant species, improved detection and rapid response to new infestations, and

control of existing populations in a cost-effective and environmentally sound manner. In addition, this action will provide for restoration of native species and habitat in ecosystems that have been invaded. The proposed action would result in amendments to existing National Forest Land and Resource Management Plans, which earlier incorporated decisions made through the 1988 Record of Decision/FEIS for Managing Competing and Unwanted Vegetation, and the 1989 Mediated Agreement. This action would replace the portions of the Record of Decision and Mediated Agreement that addresses invasive species.

Proposed Scoping

Public participation is an important part of the analysis. The Forest Service is seeking information, comments, and assistance from Federal, State and local agencies, tribes, and other individuals or organizations who may be interested in or affected by the proposed action. Comments submitted during the scoping process should be in writing. They should be specific to the action being proposed and should describe as clearly and completely as possible any issues the commentor has with the proposal. This input will be used in preparation of the draft EIS.

In addition to this scoping, the public may visit Forest Service officials at any time during the analysis and prior to the decision. To facilitate public participation additional scoping opportunities will include: a scoping letter, public meetings (dates and locations yet to be determined), newsletters, and a Web site with address (*http://www.fs.fed.us/r6/invasiveplant-eis*).

Preliminary Issues Identified to Date

Preliminary issues that have been identified are:

- Invasive plant infestations are expanding and threatening the health and stability of native plant communities and ecosystems.
- The application of herbicides, as one potential treatment method, may pose risks to human health and the environment, including soil, water, native plants, fish, and wildlife resources.

Alternatives Considered

The No Action alternative will serve as a baseline for comparison of alternatives. This alternative will be no change from current management of the Forests and will be fully developed and analyzed. The proposed action, as described above will be considered as an alternative. Additional alternatives may be developed around the proposed action to address issues identified in the scoping and public involvement process.

Estimated Dates for Draft and Final EIS

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public comment by July 2003. The comment period on the draft EIS 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 the draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC.* 435 U.S. 519.553 (1978). Also, environmental objectives that could be raised at the draft EIS stage but that are not raised until after the completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritage, Inc.* v. *Harris*, 490 F. Supp. 1334 (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 EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if the comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provision of the National Environmental Policy Act (40 CFR 1503.3) in addressing these points.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments may not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

Comments on the draft EIS will be analyzed, considered, and responded to by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed in December 2003. The Regional Forester for the Pacific Northwest Region is the responsible official and as such will consider comments, responses, environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies in making a decision regarding this proposed action. The responsible official will document the decision and rationale for the decision in the Record of Decision. It will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: August 21, 2002.

Richard W. Sowa,

Acting Deputy Regional Forester.

[FR Doc. 02–21882 Filed 8–27–02; 8:45 am]

BILLING CODE 3410–11–M

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: September 10, 2002; 2 p.m.–5 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. If necessary, the Board will reconvene the following day to conclude its business. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues

relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)).

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401–3736.

Dated: August 23, 2002.

Carol Booker,

Legal Counsel.

[FR Doc. 02–22125 Filed 8–26–02; 2:40 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security.

Title: National Security and Critical Technology Assessment of the U.S. Industrial Base.

Agency Form Number: N/A.

OMB Approval Number: 0694–0119.

Type of Request: Extension of a currently approved collection of information.

Burden: 24,000 hours.

Average Time Per Response: 4 hours per response.

Number of Respondents: 6,000 respondents.

Needs and Uses: The Department of Commerce/BIS, in coordination with other government agencies and private entities, conduct assessments of U.S. industries deemed critical to our national security. The information gathered is needed to assess the health and competitiveness as well as the needs of the targeted industry sector in order to maintain a strong U.S. industrial base. Data obtained from the surveys will be used to prepare an assessment of the current status of the targeted industry, addressing production, technological developments, economic performance, employment and academic trends, and international competitiveness.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, 202–395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: August 22, 2002.

Madeleine Clayton,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–21814 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Industry and Security.

Title: Requests For Appointment Of Technical Advisory Committee.

Form number(s): Not applicable.

Agency Approval Number: 0694–0100.

Type of Request: Renewal of an existing collection.

Burden: 5 hours.

Number of respondents: 1.

Average hours per response: 5.

Needs and uses: The Technical Advisory Committees (TAC) were established to advise and assist the U.S. Government on export control matters. In managing the operations of the TACs, the Department of Commerce is responsible for implementing the policies and procedures prescribed in the Federal Advisory Committee Act. The Bureau of Export Administration provides technical and administrative support for these committees. The TACs advise the government on proposed revisions to export control lists, licensing procedures, assessments of the foreign availability of controlled products, and export control regulations.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, 202–395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW., Washington, DC 20230. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 22, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–21815 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

AGENCY: Bureau of Industry and Security.

Title: Miscellaneous Activities.

Form Number(s): Not applicable.

Agency Approval Number: 0694–0102.

Type of Request: Renewal of an existing collection.

Burden: 10 hours.

Number of respondents: 2.

Average hours per response: 5.

Needs and uses: On September 30, 1993, the Secretary of Commerce submitted to the Congress a report of the Trade Promotion Coordinating Committee, entitled Toward a National Export Strategy. The report included the goal to ''Undertake a comprehensive review of the Export Administration Regulations to simplify, clarify, and make the regulations more user-friendly''. To carry out this

recommendation, BIS has rewritten the entire EAR. During the course of this process, many activities imposed on the public were changed to reduce the burden, however the methods varied. Some were merely eliminated; others had old activities replaced with newer, simpler activities, and still others had new activities added to permit participation in programs where prohibitions once existed. Therefore, to the extent activities have been added or changed but not deleted, this collection represents the authority to collect, on rare occasions, certain information from the public. This assembly of information collection activities is comprised of two activities. The two of these—''Registration Of U.S. Agricultural Commodities For Exemption From Short Supply Limitations On Export'', and ''Petitions For The Imposition Of Monitoring Or Controls On Recyclable Metallic materials; Public Hearings'' are statutory in nature and—though they never have been applied—must remain a part of BIS's information collection budget authorization.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, 202–395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, Office of the Chief Information Officer, (202) 482–3129, Department of Commerce, room 6608, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 20, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–21816 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: EFFECTIVE DATE: August 28, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Michele Mire, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4474 or (202) 482–4711, respectively.

SUPPLEMENTARY INFORMATION:

TIME LIMITS

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245–day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On January 29, 2002, the Department published a notice of initiation of administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China, covering the period December 1, 2000, through November 30, 2001. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 67 FR 4236 The preliminary results are currently due no later than September 2, 2002.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore, the Department is extending the time limit for completion of the preliminary results by 120 days until no later than December 31, 2002. *See* Decision Memorandum from Holly A. Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the Department's main building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: August 16,2002.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 02–21963 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5 P.M. in Suite 4100W, Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 02–036. *Applicant:* University of California, Department of Chemistry, 607 Charles E. Young Dr., East, Los Angeles, CA 90095. *Instrument:* Low Temperature Scanning Tunneling Microscope System, Model LT–STM 1. *Manufacturer:* VTS Createc GmbH, Germany. *Intended Use:* The instrument is intended to be used to determine the molecular structure and the local electronic, mechanical and chemical properties of individual molecules to make nanostructures for

basic research in nanoscience. *Application accepted by Commissioner of Customs:* August 2, 2002.

Docket Number: 02–038. *Applicant:* Department of Agriculture, Biosciences Research Laboratory, 1605 Albrecht Boulevard, Fargo, ND 58105. *Instrument:* Q Pix Colony Picker System, Model QPix2. *Manufacturer:* Genetex Ltd., United Kingdom. *Intended Use:* The instrument is intended to be used for genotyping cereal crops, including wheat, barley and oats to develop a better understanding of their genetics and to incorporate new and useful genes into the crops in order to provide farmers with crops better able to withstand various stresses and to provide consumers with more healthy and nutritious food. *Application accepted by Commissioner of Customs:* August 15, 2002.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–21964 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Missions

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the below listed overseas trade mission. For a more complete description, obtain a copy of the mission statement from the Project Officer indicated below.

Electronic Russia Business Development Mission to Moscow

October 22–25, 2002

Recruitment closes on September 23, 2002.

For further information contact: Mr. Jon Boyens, U.S. Department of Commerce, telephone 202–482–0573, or e-mail *Jon_Boyens@ita.doc.gov.*

Recruitment and selection of private sector participants for the trade mission will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

For further information contact: Mr. Thomas Nisbet, U.S. Department of Commerce. Telephone 202–482–5657, or e-mail *Tom_Nisbet@ita.doc.gov.*

Dated: August 21, 2002.

Thomas H. Nisbet,

Director, Export Promotion Coordination, Office of Planning, Coordination and Management.

[FR Doc. 02–21821 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Solicitation of Applications for Allocation of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics

August 22, 2002.

AGENCY: Department of Commerce, International Trade Administration.

ACTION: The Department of Commerce (Department) is soliciting applications for an allocation of the 2003 tariff rate quotas on certain worsted wool fabric.

SUMMARY: The Department of Commerce hereby solicits applications from persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers for an allocation of the 2003 tariff rate quotas on certain worsted wool fabric. Interested persons must submit an application on the form provided to the address listed below by 5 p.m. on September 27, 2002.

The Department will cause to be published in the Federal Register its determination to allocate the 2003 tariff rate quotas and will notify applicants of their respective allocation as soon as possible after that date. Promptly thereafter, the Department will issue licenses to eligible applicants.

DATES: To be considered, applications must be received or postmarked by 5 p.m. on September 27, 2002.

ADDRESSES: Applications must be submitted to the Industry Assessment Division, Office of Textiles, Apparel and Consumer Goods Industries, Room 3001, United States Department of Commerce, Washington, D.C. 20230 (telephone: (202) 482-4058). Application forms may be obtained from that office (via facsimile or mail) or from the following Internet address: http://web.ita.doc.gov/tacgi/wooltrq.nsf/TRQApp.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

BACKGROUND:

Title V of the Trade and Development Act of 2000 (the Act) created two tariff rate quotas (TRQs), providing for temporary reductions in the import duties on limited quantities of two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTS)heading 9902.51.11); and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12).

On August 6, 2002, President Bush signed into law the Trade Act of 2002, which includes several amendments to Title V of the Act. These include the extension of the program through 2005; the reduction of the in-quota duty rate on HTS 9902.51.12 (average fiber diameter 18.5 microns or less) from 6 percent to zero, effective for goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002; and an increase in the 2003 TRQ levels to 3,500,000 square meters for HTS 9902.51.12 and to 4,500,000 square meters for HTS 9902.51.11. These levels may be modified under procedures set forth in 15 CFR 340.

The Act requires that the TRQs be allocated to persons who cut and sew men's and boys' worsted wool suits, suit-type jackets and trousers in the United States. On January 22, 2001 the Department published regulations establishing procedures for allocating the TRQs. 66 FR 6459, 15 CFR 335. In order to be eligible for an allocation, an applicant must submit an application on the form provided to the address listed above by 5 p.m. on September 27, 2002 in compliance with the requirements of 15 CFR 335.

Any business confidential information that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law.

Dated: August 22, 2002.

Philip J. Martello,

Acting Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries, Department of Commerce.

[FR Doc.02–22013 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082202D]

Proposed Information Collection; Comment Request; NOAA Community-based Restoration Program Progress Reports

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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)).

DATES: Written comments must be submitted on or before October 28, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW., Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Robin Bruckner, NOAA Restoration Center, National Marine Fisheries Service, 1315 East West Highway (F/HC3), Silver Spring, MD 20910–3282 (301–713–0174 or by e-mail at *Robin.Bruckner@noaa.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The NOAA Community-based Restoration Program (CRP) provides financial assistance on a competitive basis to implement grass-roots, community-based habitat restoration activities through individual projects or restoration partnerships. The NOAA Restoration Center (RC), within the NOAA Fisheries Office of Habitat Conservation, intends to institute specific reporting requirements for habitat restoration projects funded through the CRP. Recipients of NOAA CRP funds will be required to submit specific information on habitat restoration projects such as site details (project location information, including geographic coordinates), restoration techniques used, species benefitted, volunteer involvement, and other variables. This information collection is necessary to track the rapidly increasing number of habitat restoration projects being implemented around the country with CRP funds. This information will be used to populate a database of NOAA-funded habitat restoration projects, respond to Department of Commerce, NOAA, Congressional and Constituent inquiries, and ensure accountability for federal funds expended under the CRP. Successful applicants are required by the NOAA Grants Management Division to submit periodic performance reports and a final report for each award; this collection will stipulate the information to be provided in these reports.

II. Method of Collection

Progress reports will be submitted in two parts consisting of a reporting form for project details, and in narrative style according to a format provided by the RC. The form and format outline will be sent to recipients in hard copy as part of their award package and will also be available on the Restoration Center's home page. Electronic submission of forms and progress report narratives will be encouraged but not required.

III. Data

OMB Number: None.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Not-for profit institutions; State, Local and Tribal Governments; and business or other for-profits organizations (limited to those organizations that have received NOAA CRP funds for habitat restoration).
Estimated Number of Respondents: 75.
Estimated Time Per Response: Five hours (average) per report. Two semiannual reports and one final report are required for each grant covering an 18-month award period, however information collected and submitted for a single report need not be collected again for subsequent reports. Preparation time for producing one comprehensive report (Progress Report Narrative and completed Project Data Form) encompassing 18 months of work is 15 hours total.
Estimated Total Annual Burden Hours: 750.
Estimated Total Annual Cost to Public: $2,205.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 21, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–21811 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082202E]

Proposed Information Collection; Comment Request; Socio-economic Assessment of Marine Protected Areas Management Preferences

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, 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)).

DATES: Written comments must be submitted on or before October 28, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW., Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. Juan Agar, Department of Commerce, NOAA, National Marine Fisheries Service, Southeast Fisheries

Science Center, 75 Virginia Beach Drive, Miami, FL 33149, (305–361–4218).

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service proposes to conduct a survey to collect socio-economic data to strengthen the management, protection, and conservation of existing and proposed Marine Protected Areas (MPAs) in the U.S. Caribbean (Puerto Rico and US Virgin Islands). MPAs are any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein. The survey intends to collect demographic, cultural and economic information from communities that are dependent on the estuarine and marine resources for their livelihood. The proposed data collection is necessary to develop science-based criteria and protocols to identify and evaluate the economic impacts of management decisions. The information will be used to protect the sustainable use of estuarine and marine ecosystems for present and future generations. The information collected will also be used to satisfy legal mandates under Executive Order 13158, Magnuson-Stevens Fishery Conservation Act, National Marine Sanctuaries Act, National Wildlife Refuge Administration Act, Coastal Zone Management Act, National Environmental Policy Act, and other pertinent statues.

II. Method of Collection

The socio-economic information will be collected via personal interviews and mail surveys.

III. Data

OMB Number: None.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business and other for-profit organizations.
Estimated Number of Respondents: 700.
Estimated Time Per Response: 1 hour.
Estimated Total Annual Burden Hours: 700.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 21, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–21812 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082302B]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings.

DATES: The meetings will be held on September 9-12, 2002.

ADDRESSES: These meetings will be held at the DoubleTree Hotel Lakeside New Orleans, 3838 North Causeway Boulevard, Metairie, LA 70002; telephone: 504–836–5253.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228-2815.

SUPPLEMENTARY INFORMATION:

Council

September 11

8:30 a.m.–Convene.

8:45 a.m.– 11:30 a.m.–Receive public testimony on the Secretarial Reef Fish Amendment 2 and the Regulatory Amendment for status determination criteria and king mackerel total allowable catch (TAC).

1 p.m.–2:30 p.m.-Receive the report of the Vessel Monitoring Committee.

2:30 p.m.– 3 p.m.–Receive the report of the Habitat Protection Committee.

3 p.m.–4 p.m.–Receive the report of the Mackerel Management Committee.

4 p.m.–4:30 p.m.–Receive the report of the Budget Committee.

4:30 p.m.–4:45 p.m.–(Closed Session) Appoint persons to Scientific and Statistical Committees.

September 12

8:30 a.m.–10 a.m.–Receive the report of the Reef Fish Management Committee.

10 a.m.–10:15 a.m.–Receive the Gulf Safety Committee Report.

10:15 a.m.–10:30 a.m.–Receive Enforcement Reports.

10:30 a.m.–10:45 a.m.–Receive the NMFS Regional Administrator's Report.

10:45 a.m.–11:15 a.m.–Receive Director's Reports.

11:15 a.m.– 11:30 a.m.–Other Business

11:30 a.m.– 11:45 a.m.–Election of Chairman and Vice-Chairman.

September 9, 2002

8 a.m–9 a.m.–Orientation Session for New Members.

9 a.m.–11:30 a.m.–Convene the Vessel Monitoring Committee to hear a NMFS presentation on the vessel monitoring system (VMS) program.

1 p.m.–2 p.m.–Convene the Budget Committee to review the CY 2003 budget.

2 p.m.– 5:30 p.m.–Convene the Habitat Protection Committee to hear reports on sargassum as essential fish habitat (EFH), methylmercury, and the NOAA-GOM-GIS project. They will also hear a legal opinion on prey species as it will be used in the EFH environmental impact statement (EIS), and discuss the classification of artificial reefs and oil structures as EFH.

September 10

8:30 a.m.–11:30 a.m–Convene the Mackerel Management Committee to review and make recommendations on a regulatory amendment for king mackerel TAC and status determination criteria. They will also hear a report on the South Atlantic Fishery Management Council's (SAFMC) action on the Dolphin/Wahoo Fishery Management Plan (FMP).

1 p.m.–5:30 p.m.–Convene the Reef Fish Management Committee to to review and make recommendations for final action on the Secretarial Reef Fish Amendment 2 for Greater Amberjack. They will also review an options paper for Reef Fish Amendment 18 and hear a presentation on the SAW/SARC

process. They will discuss a letter to the Secretary of Commerce on a fishing capacity reduction program, and will review the red snapper rebuilding plan regulatory amendment scoping document.

Although non-emergency issues not contained in the agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act), those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson Act, provided the public has been notified of the Council's intent to take final action to address the emergency. A copy of the Committee schedule and agenda can be obtained by calling (813) 228–2815.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by August 30, 2002.

Dated: August 23, 2002.

Richard W. Surdi,

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

[FR Doc. 02–21973 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080802A]

Endangered Species; File No. 1316

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Jeffery R. Schmid, The Conservancy of Southwest Florida, 1450 Merrihue Drive, Naples, Florida 34102, has requested an amendment to scientific research Permit No. 1316.

DATES: Written or telefaxed comments must be received on or before September 27, 2002.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Lillian Becker or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 1316, issued on July 16, 2001 (66 FR 39014) is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 1316 authorizes the permit holder to capture, measure, flipper and PIT tag, attach radio/sonic transmitter and time/depth recorders and release 20 Kemp's ridley turtles in the Ten Thousand Islands, Florida. The permit holder requests authorization to increase this number to 30.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: August 21, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–21810 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Fair Market Value Analysis for a Fiber Optic Cable Permit in National Marine Sanctuaries

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of availability of final report.

SUMMARY: Notice is hereby given of the availability of the final report ''Fair Market Value Analysis for a Fiber Optic Cable Permit in National Marine Sanctuaries.'' The report describes the methodology by which NOAA will assess fair market value for submarine cables in national marine sanctuaries. In doing so, the report presents an overview of the relevant economic issues, including standard approaches to valuation, the market for cable rights of way and industry trends in telecommunications. It also provides the current range of fees that NOAA will consider to determine a final fee for fair market value.

DATES: August 28, 2002.

ADDRESSES: Copies of the final report are available from the NMSP's Web site (*www.sanctuaries.nos.noaa.gov*) or by contacting Matt Brookhart at the National Marine Sanctuary Program, 1305 East West Highway, N/ORM6, #11512, Silver Spring, MD 20910, (301) 713–3125 x140, or *matt.brookhart@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Matt Brookhart at (301) 713–3125 x140.

SUPPLEMENTARY INFORMATION:

I. Background

The National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 *et seq.*) allows the Secretary of Commerce (Secretary) to issue special use permits (SUPs) for specific activities within a national marine sanctuary (16 U.S.C. 1441). If a SUP application is issued, the NMSA also authorizes the Secretary to collect fees for the conduct of any activity under a SUP. If a fee is assessed, the fee amount must be equal to the sum of the cost incurred or expected to be incurred for issuing the permit, fees for activities directly related to the conduct of the permitted activity (including costs of monitoring the activity), and an amount that represents the fair market value of the use of sanctuary resources.

To date, the NMSP has issued two SUPs for submarine fiber optic cables in

national marine sanctuaries: One at the Olympic Coast National Marine Sanctuary (NMS) off of Washington State and the other at Stellwagen Bank NMS off the coast of Massachusetts. These SUPs allow for the long-term presence of cables in the sanctuaries and were issued in conjunction with an authorization of United States Army Corps of Engineers (ACOE) permits. The ACOE permits allow for the cable's installation, maintenance, and, when necessary, repair and/or rebuttal.

At the time of issuance of both of these SUPs, fees for the administrative costs of issuing the permits and for activities directly related to the permits were assessed. However, no amount representing the fair market value fee for a submarine cable in a NMS had been determined by the NMSP. As such, NOAA economists began drafting a methodology for determining the fair market value of these cable projects in December 1999. The draft report was published in the **Federal Register** for public comment on two separate occasions: first on January 5, 2001 (66 FR 1092) and then again on August 17 2001 (66 FR 43135). The comment period closed on October 16, 2001. Approximately 30 comments were submitted in total, 10 of which requested a time extension on the first comment period. Substantive comments have been reviewed and summarized by NOAA and are presented with responses in Section III of this notice.

II. Summary of Report

When a SUP is issued, the NMSA authorizes the Secretary to collect a fee equal to the fair market value for the use of sanctuary resources. The determination of fair market value for the presence of a fiber optic cable in a sanctuary is analyzed in the report entitled ''Fair Market Value Analysis for a Fiber Optic Cable Permit in National Marine Sanctuaries.'' The report presents an overview of the relevant economic issues, including standard approaches to valuation, the market for cable rights of way, industry trends in telecommunications, and protection of sanctuary resources in the context of economic value.

The report recommends a valuation methodology based on analysis of previous right-of-way purchases. As fiber-optic cable networks have been developed and expanded over the past two decades, telecommunications companies have purchased numerous easements to extend cable over many thousands of miles (details of some of these transactions, or market ''comparables,'' are publicly available). By understanding the market conditions and business incentives that characterized previous transactions, the available data can be used to determine fair market value for rights to a given cable route. In the fair market value report, prices that prevail in the open market are applied to a SUP.

In the context of sound economic policy, any public benefits and losses associated with cables in sanctuaries need to be considered. Generally, the benefits of fiber-optic cables are in the form of internet access and other telecommunications good sold in consumer markets. The value of these benefits is estimated and accounted for by the party seeking a sanctuary permit. The cost of allowing cables in sanctuaries includes the expense of environmental monitoring and certain non-market losses associated with intrusions in a protected area. Only if total benefits exceed total costs should a cable be placed in a sanctuary. While estimating the non-market losses difficult, they are certainly greater than zero since many people would prefer to route cables around sanctuaries whenever possible. Economic efficiency (as well as market value with respect to a willing seller) requires that this non-market value be included in the price of sanctuary access, putting a lower bound on the fair market fee. This lower bound has not been estimated.

The telecommunications market has changed since a draft of the fair market value report was first released in September 2000. The current economic slowdown has led to a decline in the pace of fiber optic network expansion, and some evidence indicates that right of way values are lower. The revise report acknowledges the slowdown, but recent data on current market comparables is scarce. It is clear that the rapid expansion of fiber networks observed in the 1990s is no longer driving right-of-way values upward. But the report cites projections by industry analysts indicating that the pace of fiber deployment will rebound when the economy recovers, and will exceed previous levels by 2004. Analysis of market comparables in the current economic climate should consider the full range of observed prices, emphasizing long-term averages over short-term trends.

The report emphasizes the need to consider additional information that becomes available, while noting that many of the comparables used in the report represent high-profile projects, similar to a sanctuary crossing, transacted with the expectation of public awareness and scrutiny. Unfavorable economic conditions militate against selecting a value much higher than the long-term average, while reasonable stewardship of sanctuary resources weighs against the use of a value that is too low.

III. Recommendations

The authors of this report recommend the analysis of comparable previous transactions as the appropriate approach to determining fair market value. Most appraisers have rejected land-based, across-the-fence methods as inadequate to address current market conditions in the fiber-optic communications market. While the scenario of the willing buyer and seller emphasizes build-around cost as an upper bound on market value for rights of way, the information required to evaluate build-around cost, particularly for submarine cables, is prohibitive. Income-based analysis also requires substantial information that is not readily available in most cases. Furthermore, expectations about future income are already incorporated into previous market transactions.

The comparable transactions methodology leads to a current range of $40,000 to $100,000 per mile for the fair market value of a sanctuary permit. Valuation on a per-mile basis reflects common practice in the private right-of-way market. The range of values reflects the variability in fees observed over time and from case to case, as presented in Figure 1 of the report. Any figure within that range would be considered appropriate from the standpoint of economic valuation, and it is left to the judgment of the decision makers involved to weigh any relevant policy considerations in making a final determination.

The fair market value of a permit will change over time. The set of comparable transactions used to assess fair market value should be updated to reflect current conditions at the time an assessment is made. As in the current assessment, emphasis should be place on selected transactions that are particularly relevant to the case of a sanctuary permit. For example, long-haul routes, especially submarine cable routes, are important market comparables. Recent transactions and those involving an informed buyer and seller should be emphasized. Also, adjustments in value should be made based on the number of conduits installed in a given right of way, and the term length of the contract. Finally, in a market characterized by rapid change and wide variation in transactions data, average price trends over time are an important indication of fair market value.

IV. Summary of Comments and Responses

The following section presents NOAA's responses to the substantive comments received on the report during the public comment periods.

Comment 1: Charging for fair market value (FMV) fees in addition to other costs outlined in the SUP results in economic inefficiency.

Response: The NMSA stipulates that the NMSP may collect fees when issuing a SUP. If a fee is assessed, it must include among other things, an amount equal to the fair market value of the use of sanctuary resources. To the extent that economic efficiency is a policy goal, it would be unlikely to significantly change the appropriate fee. Efficiency requires that the fair market fee should equal the full marginal cost of access to a sanctuary. This would include permitting and monitoring costs, as well as an estimate of marginal environmental cost and public loss resulting from the cable intrusions. It is reasonable to assume that were these losses calculated and included in the fair market fee, the sum of costs alone (''competitive price'' would fall within the range of market prices contained in the report's analysis.

Comment 2: Because there is no scarcity of cable routes, the FMV should be zero or null.

Response: The notion that there is no scarcity of cable routes or rights of way presumes unconstrained access to sanctuaries for those seeking undersea cable routes. NOAA believes this is not the case, as a matter of law and as a matter of economics. A scarcity of cable routes does exist, not because cables might cover the ocean floor, but because other uses compete for the same resources. These uses include private ones, such as fishing, and public ones, such as resource protection. Although it may be true that ''the number of usable routes across a sanctuary is likely to be far greater than the number likely to be demanded,'' NOAA believes the public does not view the sanctuary as a limitless supply of cable routes.

Comment 3: The report's methodology leads to ''super-competitive'' fees flowing from an exercise of market power.

Response: The concept of ''fair market value'' refers to the value that would be observed under conditions that prevail in a free and open market. It is probably true that many of the transactions used in the FMV analysis involve the exercise of market or ''monopoly'' power by the seller. This is true of virtually all prices throughout the U.S. economy, where ''pure'' competition exists only in rare cases, such as the market for agricultural products or other commodities. Confining the report's methodology to the constraints of pure competition is not called for by the NMSA and is not what economists commonly understand when they refer to ''fair market value.''

In the case of a sanctuary permit, a price based on market power would use the concept of ''build-around'' cost. This is the cost to a telecommunications company of using the next best alternative route around a sanctuary. In other words, the power to exclude cables is the basis for a seller's market power, so a seller who fully exploits his market power would charge a price almost as high as the buyer's next best alternative. NOAA explicitly chose not to use this valuation method, avoiding reliance on market power in the calculation of fair market value. Also note that when the full public costs of allowing cables in sanctuaries are accounted for, an analysis of pure competition absent any market power is likely to lead to results similar to those of the draft report's methodologies (see response to Comment #1).

Comment 4: The goal of the draft report is to generate a right-of-way fee reflecting noncompetitive market conditions. The report specifically selects previous right-of-way transactions that involve a captive buyer.

Response: This was not the goal or method of the report. Data used in the report included all available transactions for underground fiber-optic rights of way greater than five miles in length. Proposed transactions and general fee policies were not included, only consummated transactions. As noted previously in Comment 3, noncompetitive conditions may be a characteristic of the market for fiber-optic cable rights of way.

Comment 5: Mitigation and monitoring fees should be deducted from any fair market value fee.

Response: Under the NMSA, if a fee is collected for issuance of SUP, that fee must include: (1) Costs incurred, or expected to be incurred, for the issuance of the permit; (2) costs incurred, or expected to be incurred, as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and (3) an amount which represents the fair market value of the use of a sanctuary resource.

The methodology has been developed to determine the third condition above (an amount which represents fair market value). Because fees or monitoring and damage mitigation would be addressed by condition two, they would not be included in the determination of fair market value, but handled as separate costs incurred for the issuance of the permit.

Comment 6: The draft report does not attempt to adjust for differences between comparable transactions and the sanctuary right-of-way fee.

Response: The report does adjust for differences between comparable transactions. For example, shorter routes commanding a high price per lineal foot are excluded from the analysis. The reasons for this adjustment, along with support for other similar adjustments, are provided in the report.

The report does not follow the practice, common in the appraisal profession, of using a single similar transaction as a starting point. According to this practice, differences are accounted for between the chosen comparable and the transaction that is the subject of the valuation. As noted in the report, NOAA believes that information about the market value for a sanctuary permit is best obtained using data from numerous transactions. The report develops a methodology by analyzing trends in the market and understanding the conditions and characteristics that create right-of-way value. It should be noted that among the available data, the comparable transaction most similar to a sanctuary right of way would be the undersea cable permit issued by the California Coastal Commission. It was one of the most expensive routes observed anywhere.

Comment 7: NOAA should use rural routes adjacent to low-value lands as the most realistic comparables. Corridor values should not be included in the NOAA analysis. Routes serving major markets like New York City are more valuable than rural routes.

Response: Many of the routes included in the report's analysis are rural, long-haul routes connecting urban markets, similar to undersea cables. Based on the available data and the opinions of many market analysts, NOAA concludes that market value for long-haul routes does not significantly depend on the value of adjacent lands. It is not clear that excluding urban routes would be appropriate, nor that it would significantly change the methodology's results. To exclude corridor values from the analysis would be to accept the price of adjacent land as the appropriate measure of value, which, as stated, does not reflect market conditions. To the extent that urban market are associated with high-priced high-capacity routes with many fiber conduits, an adjustment has been made

in report's analysis: the price of a route is divided over the several conduits installed, resulting in a lower pro-rated for cable capacity.

Comment 8: The public benefits associated with development of the nation's telecommunications infrastructure should be taken into account in the fair market fee.

Response: Economic efficiency requires that all costs and benefits of a transaction be reflected in the transaction price. This includes costs and benefits reflected in market prices, such as the revenue fiber-optic carriers collect from consumers. It also includes costs and benefits not reflected in the market. The most significant non-market cost that should be included in the right-of-way fee is the environmental loss associated with having fiber-optic cables in national marine sanctuaries. The only non-market benefits included in the right-of-way fee should be those specifically associated with laying a cable through a sanctuary (as opposed to some other route). There is no information available to NOAA indicating that such benefits exist.

Comment 9: The economic state of the telecommunications industry is less favorable today than is reflected in the draft report.

Response: Periodic updates of the fee are envisioned in the report and additional efforts to update the report based on recent economic conditions has been undertaken. Additional criteria may also be considered when applying the methodology to determine the fee, including Federal telecommunications policy as established by the Department of Commerce and current market trend data.

Comment 10: The California State Land Commission (CLC) transactions of $280,000 per mile are a more appropriate basis for a fair market fee than the land-based transactions compiled in the report.

Response: More than a single transaction is needed to establish a reasonable basis for fair market value. Multiple transactions are required so that unusual circumstances of any given transaction do not unduly influence the establish fee. Furthermore, the CLC fees are for rights of way of only four miles in length. The report's analysis focuses on rights of way greater than five miles in length in order to obtain results most relevant to long-haul sanctuary routes.

Comment 11: The fee set for a submarine cable permit by the NMSP should be deliberately high to discourage companies from seeking routes through sanctuaries.

Response: The NMSP is authorized to collect fair market value for special uses of sanctuary resources. It does not use the fair market fee as a disincentive to those seeking to obtain a permit. The decision to grant, deny or place conditions on the permit is the proper mechanism for limiting use of sanctuary resources in the interest of resource protection.

Comment 12: Because no market exists for access to national marine sanctuaries, fair market valuation is inappropriate.

Response: Any fair market valuation must rely on market information absent the transaction being valued. While there is no open market trading for access to sanctuaries, there is a market for fiber-optic rights of way, and it is this market on which the report relies.

Comment 13: The income approach to valuation is inappropriate because the company receiving a sanctuary permit does not obtain complete ownership of the right of way and because there is no way to allocate the value of the right of way use to the right of way itself.

Response: The report does not recommend the income approach for valuation of sanctuary permits. A description of the approach is included in the report for completeness, based on use of the income approach in some right-of-way transactions and in asset valuation generally. However, it should be noted that the issues of incomplete ownership and allocation of value are not insurmountable, since they are specifically accounted for in some market transactions.

Comment 14: The report does not consider all possible environmental impacts from a specific cable project (such as marine mammal entanglement, strumming, release of drilling fluids, etc.)

Response: Environmental impacts of undersea fiber optic cables in marine sanctuaries are addressed in an environmental review that is part of the cable permitting process. The purpose of the fair market value analysis is to determine the fee for sanctuary access in those cases when a permit is issued. The determination of fair market value does not rely on an analysis of environmental impacts, and the fair market value report only addresses environmental impacts in an economic context, as a related issue.

Comment 15: NOAA's use of terrestrial examples as comparable transactions are inappropriate due to the fundamental difference between marine and terrestrial environments and differences in impacted user groups (*e.g.*, fishers).

Response: The market value for fiber-optic rights of way is not significantly tied to land values, but rather depends on constraints and incentives in the telecommunications industry and the role of a right of way in a larger fiber-optic network. These conditions are not dependent on the terrestrial or marine environment where the right of way is located. Also, the information available for submarine cables indicates that right-of-way transaction fees are similar in the two environments.

Comment 16: Any evaluation methodology for FMV should be based on the concept of the sanctuary as a non-willing seller (and nothing else).

Response: The concept of the willing buyer and willing seller is central to determining fair market value. The basis of fair market value is the price that would prevail in a free market transaction between a willing buyer and a willing seller. By examining previous transactions, the methodology used in the report follows this commonly accepted approach.

Comment 17: The methodology does not consider all types of rights of way and any Federal fair market value analysis should be conducted separately from those in the private sector.

Response: The NMSA requires that any fee collected by NOAA include fair market value for the use of sanctuary resources when issuing a special use permit (16 U.S.C. 1441(d)). By definition of fair market value, this requirement necessitates the use of market data involving buyers and sellers of privately owned assets. Transactions involving public entities are included in the analysis to the extent that they reflect values determined through private market incentives.

Comment 18: The NOAA FMV analysis ignores the intrinsic value of sanctuaries as pristine habitats and provides a windfall to businesses seeking to use them for private gain.

Response: It is true that the methodology endorsed in the report does not specifically rely on the calculation of environmental amenity value. The report considers such values, and concludes that they are correctly viewed as a lower bound on the appropriate fair market fee.

Comment 19: The two concepts of value used in the report (''fair market value'' and ''amenity value'') must be clearly distinguished.

Response: Fair market value refers to the price that would be agreed upon by a willing buyer and seller in an open market transaction. Amenity value refers to the importance placed on protecting the sanctuaries from the intrusion of cable and the loss associated with allowing a fiber-optic project. The report has been revised and

an attempt has been made to clarify this distinction.

Comment 20: The methodology must figure the cost of monitoring cable installation, cable burial, and damage mitigation fees into a final FMV fee (if such conditions are not agreed to in a permit).

Response: If a fee is collected for issuance of special use permit, that fee must include: (1) Costs incurred, or expected to be incurred, for the issuance of the permit; (2) costs incurred, or expected to be incurred, as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and (3) an amount which represents the fair market value of the use of a Sanctuary resource.

The methodology has been developed to determine the third amount above (an amount which represents fair market value). Because fees for monitoring and damage mitigation would be addressed by condition two, they would not be included in the determination of fair market value.

Comment 21: Because the NMSP does not hold title to the seabed in a sanctuary (and is not, therefore, a property owner), it cannot be compared to the landowners used by the report in its comparable transaction analysis.

Response: As stated in the response to Comment #17, the NMSA authorizes NOAA to collect a fee when issuing a SUP. If a fee is collected, that fee must include among other things, an amount equal to the fair market value for the use of sanctuary resources. By definition of fair market value, this requirement necessitates the use of market data involving buyers and sellers of privately owned assets. Transactions involving public entities are included in the analysis to the extent that they reflect values determined through private market incentives.

Comment 22: The NOAA methodology is contrary to the Telecommunications Act of 1996, which supports a cost-based approach and mandates ''fair and reasonable'' fees for the installation and maintenance of telecommunications projects.

Response: NOAA believes that the methodology contained in the report will lead to fair and reasonable fees. A cost-based approach must include economic costs, not just accounting costs. For this reason, municipalities have considered disruptions to the flow of traffic when setting a reasonable fee for cable installation on public streets. The protected nature of a sanctuary also presents costs associated with cable installation, but these costs are difficult to evaluate. For this reason, NOAA believes that market values can be reasonably applied to the presence of cables in a sanctuary and that more conservation accounting measures of cost should be avoided.

Comment 23: Any FMV fee should be prorated over the period of the permit and paid on an annual basis (rather than a one-time, up front fee).

Response: NOAA intends to determine the FMV fee for any permit issued up front and in full. The payment schedule for such a fee, however, would be negotiated on a case-by-case basis between NOAA and the permittee. Any payment schedule that is not a one-time fee would be adjusted for inflation. Any negotiated payment schedule would also include safeguards (e.g., performance bond) to ensure that full payment is made to NOAA. For any future SUPs issued for a cable in national marine sanctuary, all payment schedules and payment safeguards will be included as permit conditions.

Comment 24: the NMSP should consider reducing individual fees on a per-cable basis for cables located within an approved corridor.

Response: At this time, NOAA is developing a policy on the installation of submarine cables in national marine sanctuaries. Cable corridors are one of the issues that will be considered while developing this policy.

Comment 25: It is inaccurate for NOAA to assume in the report that all cables can be successfully buried.

Response: The fair market value report deals with environmental impacts as a matter of general background and in the limited context of economic efficiency (see responses to comments #8 and #14. Since the methodology presented does not rely on an assessment of environmental impacts, the report does not attempt to describe the impacts in a complete and thorough manner. NOAA agrees, however, that submarine cables are not always successfully buried and that burial might not be possible in some locations.

Comment 26: Under restrictions imposed by the NMSA, special use permits cannot be used to generate income for NOAA and the Federal government.

Response: NOAA agrees. Any fair market value fee would not be used to generate extraneous income for the NMSP or the Federal government. It would, rather, be used wholly in accordance with the NMSA as ''expenses for managing National Marine Sanctuaries'' (16 U.S.C. 1441(d)(3)(B).)

Comment 27: The use of the term ''fair market value'' is contrary to certain Federal telecommunications and security policies that lift governmental barriers to the facilitation of communications networks for reasons of both economy and national security.

Response: NOAA disagrees. Please see the responses to Comments #22 and #40.

Comment 28: NOAA's imposition of exorbitant fees on cable operators is contrary to the Department of Commerce's mission of strengthening and safeguarding the country's economy.

Response: The mission of the Department of Commerce is comprised of three basic tenets: (1) Build for the future and promote U.S. competitiveness in the global marketplace by strengthening and safeguarding the nation's economic infrastructure; (2) Keep America competitive with cutting-edge science and technology and an unrivaled information base; and (3) Provide effective management and stewardship of the nation's resources and assets to ensure sustainable economic opportunities.

To date, no fees have been established or imposed regarding FMV for submarine cables in national marine sanctuaries. However, when the FMV fees are applied to the existing special use permit holders, they will be taken from a range of current comparable transactions (many of which focus on the telecommunications industry). NOAA believes this range ensures that any FMV fees are sound, fair, and reasonable and do not promote a contradiction of any of the tenets of the DOC mission statement.

Comment 29: The report's methodologies will result in exceedingly high fees compared to the negligible impact of cable installation.

Response: As mentioned in the response to Comment #28, methodologies employed by the report ensure fees remain with a range of current comparable transactions from a variety of different examples.

Comment 30: NOAA's FMV fees are wholly unrelated to its mission of protection of sanctuary resources.

Response: The NMSA authorizes the NMSP's collection of fair market value for the use of sanctuary resources. Should NOAA allow the cable and issue a SUP, such amounts will be used for ''expenses of managing national marine sanctuaries'' (16 U.S.C. 1441(d)(3)(B)).

Comment 31: NOAA has no experience in the telecommunications industry and, therefore, has little business setting fee structures regarding fiber optic cables.

Response: NOAA economists, working in conjunction with a number of contracted non-Federal economists, have produced a comprehensive report that uses several approaches to determining fair market value, including recent comparables from various telecommunications industry transactions. The collective experience of these economists with valuation is extensive. Furthermore, the report was submitted for peer review to two leading economic analysts: Dr. Richard Schmallensee, Dean of the MIT Sloan School of Business and the KMI Corporation, a consulting firm in the telecommunications industry that has evaluated the right of way market on several occasions and does on-going research on undersea cables and the transoceanic fiber optic market. Both analysts concluded that the methodology was sound, fair, and reasonable.

Comment 32: NOAA should not implement a fee-setting methodology for special use permits before it determines whether the issuance of such permits is appropriate.

Response: NOAA has developed the FMV analysis as part of its process for developing an overall policy concerning the installation of submarine cables in national marine sanctuaries that have already been issued. These permits were issued as independent, site-specific actions and would not be affected retroactively by any future programmatic policy or regulations the NMSP may develop on submarine cables. The fair market value fee will be applied to both of the current special use permit holders and to any other cable that may receive a special use permit in a national marine sanctuary in the future.

Comment 33: Administrative law condemns retroactive application of any FMV fee.

Response: NOAA will not assess FMV fees retroactively. NOAA will apply the methodology in the report to determine the FMV fee for current special use permit holders with the payment of FMV stipulated in their permits. NOAA will also use the report's methodology to determine the FMV for any future special use permit that may be issued for a submarine cable in an NMS.

Comment 34: The NMSP has no jurisdiction outside of Sanctuaries and cannot impose any FMV fees on cable carriers outside of Sanctuaries.

Response: FMV Fees assess by the NMSP apply only to cables located in sanctuaries.

Comment 35: Submarine cables, do not ''use'' sanctuary resources as stipulated in the NMSA and therefore cannot be subjected to special use permits and/or any FMV fee.

Response: ''Sanctuary resource'' is defined by the NMSA as ''any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, educational, cultural, archaeological, scientific, or aesthetic value of the sanctuary'' (16 U.S.C. 1432 (8)). Seafloor substrate fits this definition as it contributes to all of the criteria. A submarine cable depends on the substrate as a means of support. In this regard, a cable (as a permanent or semi-permanent structure) uses a sanctuary resource (the seafloor) to bear it from one point to another and may preclude other uses of the resource. Therefore, it is subject to the NMSA if it is in a national marine sanctuary.

Comment 36: All FMV fees should be used solely by the NMSP.

Response: All FMV fees will be used solely by the NMSP.

Comment 39: When applying FMV fees, NOAA should distinguish between commercial and research cables (and not apply FMV to research cables).

Response: FMV fees apply for those activities authorized under a special use permit. When the purpose of an activity is scientific research related to NMS resources, the activity can be permitted under a research permit (which has no associated fee).

Comment 40: The imposition of fees proposed in the report will significantly impact costs associated with international electronic commerce and stifle efforts to extend global digital information opportunities.

Response: The range of fees proposed in the report is based on recent comparable transactions from a number of different examples. These comparables ensure that any FMV fees will fall within an array of current market figures and will not be exorbitant or crippling to international electronic commerce.

Section V: Next Steps.

NOAA will meet with the existing special use permit holders to determine the fair market value owed on their permits. The fee will be based on the methodology in this report. The range of fees presented in the report will also be used as the basis for determining FMV for any future special use permit that may be issued by the NMSP for a submarine cable in a national marine sanctuary. To remain current, it is envisioned that NOAA will periodically update the range of fees with current data.

Dated: August 21, 2002.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 02–21975 Filed 8–27–02; 8:45 am]

BILLING CODE 3510–08–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation'') has submitted a public information collection request (ICR) 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). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, William M. Ward, at (202) 606–5000, extension 375 or by e-mail at *WWard@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (800) 833–3722 between the hours of 9 a.m. and 5 p.m. Eastern Standard Time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Ms. Brenda Aguilar, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC, 20503, (202) 395–7316, within 30 days from the date of publication in this **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 Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Description

Currently, the Corporation is conducting a Study of the Community, Higher Education, and School Partnerships (CHESP) supported with Learn and Serve America School-based funds. The Corporation seeks approval of two telephone survey forms that will be used to collect information from CHESP grantees and subgrantee organizations which will describe the organizations, the CHESP activities that they are involved in, and their perceptions of their CHES Partnerships. This requires collecting information from grantee and subgrantee organization staff that will address: (1) CHESP project characteristics and information about the implementation of the partnerships; and (2) the impact of the CHESP partnerships on the grantee and the subgrantee organizations.

Type of Review: New collection.

Agency: Corporation for National and Community Service.

Title: CHESP Grantee/Subgrantee Survey.

OMB Number: None.

Agency Number: None.

Affected Public: Project staff at CHESP grantee organizations such as state education agencies, grantmaking entities, and one Indian Tribe, and project staff at subgrantee organizations such as community based organizations, elementary and secondary schools and school districts, and institutions of higher education.

Total Respondents: 20 grantees, and approximately 166 subgrantees.

Frequency: One time survey.

Average Time Per Response: Grantee Survey: 60 minutes, Subgrantee Survey: 50 minutes.

Estimated Total Burden Hours: 160.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: August 22, 2002.

David Reingold,

Director, Department of Research and Policy Development.

[FR Doc. 02–21914 Filed 8–27–02; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation'') has submitted a public information collection request (ICR) 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). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, William M. Ward, at (202) 606–5000, extension 375 or e-mail at *WWard@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY-TDD) may call (800) 833–3722 between the hours of 9 a.m. and 5 p.m. Eastern Standard Time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Ms. Brenda Aguilar, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC, 20503, (202) 395–7316, within 30 days from the date of publication in this **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 Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Description

The Corporation seeks to conduct an in-depth study of the attrition patterns of its AmeriCorps*State and National, AmeriCorps*VISTA and AmeriCorps*NCCC programs. This study will entail telephone interviews of approximately 30 minutes in length with 1000 former AmeriCorps members. It will provide indicators of program success, differences among programs in retaining participants, individual characteristics of participants who tend to drop out, and combinations of member and program characteristics that appear to work well or work poorly.

Type of Review: New collection.

Agency: Corporation for National and Community Service.

Title: AmeriCorps Attrition Overview Survey.

OMB Number: None.

Agency Number: None.

Affected Public: Former AmeriCorps members.

Total Respondents: 1,000.

Frequency: One time.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 500 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: August 22, 2002.

David Reingold,

Director, Department of Research and Policy Development.

[FR Doc. 02–21915 Filed 8–27–02; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability (NOA) of the Record of Decision (ROD) for Disposal of Chemical Weapons at the Pueblo Chemical Depot (PCD), Colorado

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the ROD for the design, construction, and operation of a facility for the destruction of chemical agents at the PCD. The ROD documents and explains the Defense Acquisition Executive's decision to select chemical neutralization followed by biotreatment for the destruction of the mustard chemical agent stored at the PCD. A variety of factors were considered in making this decision, including, but not limited to, mission needs, cost, schedule, environmental considerations, public concerns, and compliance with the Chemical Weapons Convention.

ADDRESSES: To obtain a copy of the ROD, contact the Program Manager for Chemical Demilitarization, Public Outreach and Information Office (ATTN: Ms. Sandra Clawson-Freeo), Building E–4585, Aberdeen Proving Ground, Maryland 21010–4005.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Clawson-Freeo at 410–436–1479,

by fax at 410–436–5122, by electronic mail at *Sandra.Clawson-Freeo@pmcd,apgea,army.mil* or by mail at the above listed address.

SUPPLEMENTARY INFORMATION: In its ROD on February 26, 1988 (53 FR 5816, February 26, 1988) for the Final Programmatic Environmental Impact Statement (EIS) on the Chemical Stockpile Disposal Program (CSDP), the Department of the Army selected on-site disposal by incineration at all eight chemical munition storage sites located within the continental United States as the method by which it will destroy its lethal chemical stockpile. The Department of the Army published a Notice of Intent in the **Federal Register** (65 FR 20140–41, April 14, 2000) which provides notice that, pursuant to the National Environmental Policy Act (NEPA) and implementing regulations, it was preparing a draft site-specific EIS for the Pueblo Chemical Agent Disposal Facility. On May 11, 2001, the Army published a Draft EIS to assess the site-specific health and environmental impacts of on-site disposal of the chemical agents and munitions stored at the PDC. The Final EIS was published on April 17, 2002. All public comments received during the NEPA process have been considered in making this decision.

The Program Manager for Assembled Chemical Weapons Assessment (ACWA) prepared a separate EIS. The ACWA EIS is for follow-on pilot testing of the ACWA Program pursuant to the process established by Congress in Public Laws 104–208 and 105–261. The ACWA EIS emphasizes the feasibility of pilot testing one or more of the ACWA technologies at one of more sites. One of the four sites evaluated in the ACWA EIS was the PCD. Information provided by the ACWA Program concerning the neutralization technologies provided the basis for analysis of the neutralization technologies and comparison with incineration in this site-specific EIS for stockpile destruction at Pueblo. This site-specific EIS and the ACWA EIS serve complementary purposes.

Dated: August 21, 2002.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health, OASA(I&E).

[FR Doc. 02–21874 Filed 8–27–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Draft Environmental Assessment for the Transport of Polychlorinated Biphenyl-Containing Items From Japan and Wake Island to the United States

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice of availability.

SUMMARY: The draft environmental assessment (EA) for the transport of items containing polychlorinated biphenyl (PCB) from Japan and Wake Island to the United States is available for public review and comment. The EA assesses the risks of transporting used electrical equipment and associated items containing PCBs to the U.S. by air and by sea for ultimate disposal at Environmental Protection Agency permitted facilities. This equipment is used for the benefit of the U.S. Military and is removed from service when it reaches the end of its useful life. This draft EA addresses three alternatives: transport by sea; transport by air; and no action. Approximately 2.8 million pounds of material including packaging is currently in storage at U.S. installations in Japan and Wake Island. An estimated 4.3 million pounds of material is still in use and will be removed from service during the next several years. The draft EA is available for public review at the Defense Logistics Agency Public Affairs Office and on the World Wide Web at *http://www.dla.mil.* The public is invited to comment on the draft EA for 30 days beginning with the publication of this notice. Comments should be sent to the Defense Logistics Agency, Attention: Mr. Jack Hooper, DLA–CP, 8725 John J. Kingman Road, Suite 2545, Fort Belvoir, VA 22060–6223.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Hooper at (703) 767–5121.

Richard J. Connelly,

Director, DLA Support Services.

[FR Doc. 02–21788 Filed 8–27–02; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 27, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 22, 2002.

John D. Tressler,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Extension.

Title: Application for Ability to Benefit Testing Approval.

Frequency: Annually.

Affected Public: Businesses or other for-profit; Individuals or household; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 150,090.

Burden Hours: 77,040.

Abstract: The Secretary will publish a list of approved tests which can be used by postsecondary educational institutions to establish the ability to benefit for a student who does not have a high school diploma or its equivalent

for Student Financial Assistance Programs.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2065. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–21829 Filed 8–27–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM96–1–020, RP02–495–000, RP02–492–000, RP02–493–000, RP02–491–000, RP02–485–000, RP02–488–000, RP02–486–000, RP02–487–000, RP02–499–000, RP02–490–000, RP02–489–000 and RP02–494–000;]

Standards For Business Practices of Interstate Natural Gas Pipelines, Algonquin LNG, Inc., Algonquin Gas Transmission Company, East Tennessee Natural Gas Company, Egan Hub Partners, L.P., Enbridge Pipeline (AlaTenn) Inc., Enbridge Pipelines (KPC), Enbridge Pipelines (Midla) Inc., Enbridge Pipelines (UTOS) LLC, Equitrans, L.P., Gulfstream Natural Gas System, Maritimes & Northeast Pipeline, L.L.C., Texas Eastern Transmission, LP; Notice of Compliance Filing

August 21, 2002.

Take notice that the above-referenced pipelines made filings in compliance with Docket No. RM96–1–020, Order No. 587–O.[1] These revised tariff sheets to be effective October 1, 2002.

In Order No. 587–O, the Commission required pipelines to file revised tariff sheets to comply with Version 1.5 of the consensus industry standards, promulgated by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB), formerly the Gas Industry Standards Board. The Commission directed that pipelines implement these standards by filing revised tariff sheets no later than August 1, 2002, to become effective October 1, 2002 implementation date required by Order No. 587–O.

Any person desiring to become a party in a proceeding must file a separate motion to intervene or protest in each docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before August 28, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21850 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

[1] Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587–O, 67 FR 30788 (May 8, 2002), III FERC Stats. & Regs. Regulations Preambles, ¶ 31,129 (May 1, 2002).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–379–001]

CMS Trunkline LNG Company, LLC; Notice of Compliance Filing

August 21, 2002.

Take notice that on August 12, 2002, CMS Trunkline LNG Company, LLC (TLNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheet to be effective August 1, 2002.

Sub Second Revised Sheet No. 5

This filing is made in compliance with the Commission's July 31, 2002 order in this docket. The revised tariff sheet reflects a 0.10% increase to the currently effective fuel reimbursement percentage and a $0.0045 per Dt increase for the electric power cost adjustment under Rate Schedules FTS and ITS.

TLNG states that a copy of this filing is available for public inspection during regular business hours at TLNG's office at 5444 Westheimer Road, Houston, Texas 77056–5306. In addition, copies of this filing are being served on all affected customers, interested state regulatory agencies and parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-

Filing'' link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21858 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–383–001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

August 21, 2002.

Take notice that on August 15, 2002, Columbia Gas Transmission Corporation (Columbia), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Sixth Revised Sheet No. 283 and Original Sheet No. 283A, with a proposed effective date of August 1, 2002.

Columbia states that it made a filing with the Commission on July 2, 2002 to include a new Section 4.2(i) to Section 4.2 of the General Terms and Conditions (GTC) of its FERC Gas Tariff to permit it, under certain limited circumstances, to reserve capacity that is available for firm service under the provisions of GTC Section 4.2 for future expansion projects. The Commission approved the filing on July 31, 2002 (100 FERC ¶ 61,136 (2002)), subject to modifications. The instant filing makes the modifications directed by the Commission in the July 31, 2002 Order.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.

Deputy Secretary.

[FR Doc. 02–21860 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–062]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

August 21, 2002.

Take notice that on July 23, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following contract for disclosure of a negotiated rate transaction:

FTS–1 Service Agreement No. 73133 between Columbia Gulf Transmission Company and Cinergy Marketing & Trading, L.P. dated July 1, 2002

Transportation service is to commence July 1, 2002 under the agreement.

Columbia Gulf states that copies of the filing has been served on all parties identified on the official service list in Docket No. RP96–389.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before August 28, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21851 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–064]

Columbia Gulf Transmission Company; Notice of Compliance Filing

August 21, 2002.

Take notice that on August 12, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet to become effective August 2, 2002:

Fourth Revised Sheet No. 316

Columbia Gulf states on June 28, 2002, it made a filing with the Federal Energy Regulatory Commission (''Commission'') seeking approval of a Rate Schedule FTS–1 negotiated rate agreement with Virginia Power Energy Marketing in Docket No. RP96–389–055. On August 2, 2002, the Commission issued an order on the filing, approving the service agreement effective November 1, 2002, and directing Columbia Gulf to file a tariff sheet identifying the agreement as a non-conforming agreement in compliance with Section 154.112(b) of the Commission's regulations. The instant filing is being made to comply with Section 154.112(b) and reference the non-conforming service agreement in its Volume No. 1 tariff.

Columbia Gulf states that copies of its filing are available for public inspection during regular business hours in a convenient form and place at Columbia Gulf's offices at 12801 Fair Lakes Parkway, Fairfax, VA; 2603 Augusta, Suite 125, Houston, TX; and 10 G Street, NE., Suite 580, Washington, DC.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21852 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–384–001]

Columbia Gulf Transmission Company; Notice of Compliance Filing

August 21, 2002.

Take notice that on August 15, 2002, Columbia Gulf Transmission Company (Columbia Gulf), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Fourth Revised Sheet No. 147 and Original Sheet No. 147A with a proposed effective date of August 1, 2002.

Columbia Gulf states that it made a filing with the Commission on July 2, 2002 to include a new Section 4.2(i) to Section 4.2 of the General Terms and Conditions (GTC) of its FERC Gas Tariff to permit it, under certain limited circumstances, to reserve capacity that is available for firm service under the provisions of GTC Section 4.2 for future expansion projects. The Commission approved the filing on July 31, 2002 (100 FERC 61,133 (2002)), subject to modifications. The instant filing makes the modifications directed by the Commission in the July 31, 2002 Order.

Columbia Gulf states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21861 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–382–001]

Crossroads Pipeline Company; Notice of Compliance Filing

August 21, 2002.

Take notice that on August 15, 2002, Crossroads Pipeline Company (Crossroads), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute First Revised Sheet No. 85 and Original Sheet No. 85A, with a proposed effective date of August 1, 2002.

Crossroads states that it made a filing with the Commission on July 2, 2002 to include a new Section 4.2(i) to Section 4.2 of the General Terms and Conditions (''GTC'') of its FERC Gas Tariff to permit it, under certain limited circumstances, to reserve capacity that is available for firm service under the provisions of GTC Section 4.2 for future expansion projects. The Commission approved the filing on July 31, 2002 (100 FERC 61,131 (2002)), subject to modifications. The instant filing makes the modifications directed by the Commission in the July 31, 2002 Order.

Crossroads states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21859 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–166–002]

Florida Gas Transmission Company; Notice of Compliance Filing

August 21, 2002.

Take notice that on August 7, 2002, Florida Gas Transmission Company (''FGT'') tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1 (''Tariff'') effective April 1, 2002, the following tariff sheets:

Ninth Revised Sheet No. 2
Second Revised Sheet No. 209

FGT states that on December 1, 1999, in Docket No. CP00–40–000, FGT filed for authorization to expand the capacity of its system in order to provide incremental firm transportation service pursuant to Rate Schedule FTS–2 (''Phase V Certificate Application''). Included as part of the Phase V Certificate Application were the Phase V shippers' FTS–2 service agreements. FGT states that in its Preliminary Determination on Nonenvironmental Issues dated November 22, 2000 (''PD'') the Commission noted that these service agreements contained certain variations from the FTS–2 Form of Service Agreement contained in FGT's Tariff.

The PD directed FGT ''to refile them so that they conform with the FTS–2 Form of Service Agreement in its tariff or to develop a generally applicable FTS–2 Form of Service Agreement to conform with the Phase V agreements.''

FGT further states that on February 28, 2002, in Docket No. RP02–166–000, FGT filed tariff revisions to its FTS–2 Form of Service Agreement (''February 28 Filing'') in response to the Commission's requirements in the PD. The February 28 Filing was rejected by Commission order issued March 28, 2002 (''March 28 Order''). The March 28 Order directed FGT to file tariff changes modifying its FTS–2 Form of Service Agreement to match the provisions of the Phase V shippers' FTS–2 service agreements. In addition, FGT was instructed to include a narrative explanation and a matrix that matches up each Phase V contract provision with each proposed FTS–2 Form Agreement provision, including justification for any contract provision that deviates from the proposed FTS–2 Form Agreement.

On April 17, 2002, FGT states it filed tariff revisions and the requested matrix (April 17 Filing) in accordance with the March 28 Order. On August 1, 2002, the Commission issued an order (''August 1 Order''), which affirms that FGT has ''fully complied with the Commission's directives in the PD and the March 28 order'', but states that ''there remain material deviations between the FTS–2 form of service agreement and the Phase V service agreements''. Ordering Paragraph 9 of the August 1 Order directs FGT to file, within ten days from the date of the order, a tariff sheet listing the Phase V service agreements as non-conforming in accordance with Section 154.112(b) of the Commission's regulations, which requires that service agreements that deviate in any material aspect from the form of service agreement must be filed with the Commission and referenced in FERC Volume No. 1. The instant filing is submitted in compliance with the August 1 Order.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21856 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–166–003]

Florida Gas Transmission Company; Notice of Compliance Filing

August 21, 2002.

Take notice that on August 13, 2002, Florida Gas Transmission Company (''FGT'') tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1 (''Tariff'') effective April 1, 2002, the following tariff sheet:

Substitute Second Revised Sheet No. 209

FGT states that on August 1, 2002, the Commission issued an order (''August 1 Order'') directing FGT to file, within ten days from the date of the order, a tariff sheet listing its Phase V service agreements as non-conforming in accordance with Section 154.112(b) of the Commission's regulations, which requires that service agreements that deviate in any material aspect from the form of service agreement be filed with the Commission and referenced in FERC Volume No. 1. On August 7, 2002, FGT submitted tariff revisions (''August 7 Filing'') in response to the August 1 Order.

FGT further states that the August 7 Filing inadvertently listed two agreements originally filed with FGT's Phase V expansion application, but which were thereafter terminated and did not go into effect. Specifically, the agreements with Dynegy Marketing and Trade (''Dynegy'') and Enron North America Corp. (''ENA'') were submitted on December 1, 1999, with FGT's original application in Docket No. CP00–40–000. Dynegy and ENA subsequently exercised rights in their agreements to terminate the agreements. FGT subsequently entered into a long-term contract with Tampa Electric Company (''TECO''), which was submitted with FGT's amended application in Docket No. CP00–40–001 on August 1, 2000. FGT states that the instant filing is submitted in order to correctly reflect the effective Phase V service agreements by deleting the Dynegy and ENA agreements from the list of non-conforming agreements filed in the August 7 Filing and adding the TECO agreement. The subheading ''Rate Schedule FTS–2'' and the individual contract numbers have also been added to further identify the agreements.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21857 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–14–011]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 21, 2002.

Take notice that on August 12, 2002, Midwestern Gas Transmission Company (Midwestern) tendered for filing and acceptance, an interruptible gas transportation service agreement pursuant to Midwestern's Rate Schedule IT–1, Second Revised Sheet No. 7 and Second Revised Sheet No. 273 of Midwestern's FERC Gas Tariff, Third Revised Volume No. 1. The filing sets forth a negotiated rate non-conforming interruptible agreement between Midwestern and Mirant Americas Energy Marketing, LP (Mirant) that became effective August 12, 2002.

Copies of this filing have been sent to all of Midwestern's contracted shippers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21853 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–501–000]

Northern Natural Gas Company; Notice of Tariff Filing

August 21, 2002.

Take notice that on August 15, 2002, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1 the following tariff sheets to be effective November 1, 2002:

Sixth Revised Sheet No. 263H
Fifth Revised Sheet No. 263H.1

Northern states that Tariff Sheet Nos. 263H and 263H.1 reflect the Sourcers' flow obligation as a result of the Appendix B customers' election to source or buyout of their flow obligation based on Section 29(C)2 of Northern's tariff.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21865 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–423–000]

Northwest Pipeline Corporation; Notice of Application

August 21, 2002.

Take notice that on August 13, 2002, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah, 84158, filed in [Docket No. CP02–423–000, an application, pursuant to Sections 7(b) and (c) of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's Regulations for permission and approval authorizing Northwest to abandon certain facilities and a certificate of public convenience and necessity to construct and operate certain replacement facilities in LaPlata County, Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659.

Specifically, Northwest proposes to abandon approximately 4.98 miles of 26-inch pipeline and the Durango delivery tap and to replace the abandoned facilities by constructing and operating 6.9 miles of 26-inch pipeline and a new Durango Meter Station. It is stated that the delivery tap being abandoned and the meter station proposed for construction are for deliveries of natural gas to Greeley Gas Company (Greeley). It is explained that the reason for replacing the existing facilities is that the United States Bureau of Reclamation (USBOR) is planning to construct the Ridges Basin Dam and Reservoir (Ridges Basin), part of a major water project designed to provide water for municipal and industrial uses in the Four Corners Region of Colorado and New Mexico. It is asserted that Northwest's existing facilities lie within the boundaries of

Ridges Basin and must be relocated in order to maintain the operational integrity of Northwest's mainline and to avoid significant reliability concerns associated with inundation of the facilities by construction of Ridges Basin. Northwest states that it plans to complete the new facilities by summer of 2003 in order to avoid interference with USBOR's construction schedule.

Northwest estimates the cost of the proposed facilities at approximately $16.9 million and states that all costs will be reimbursed by USBOR.

Any questions regarding this application should be directed to Gary Kotter, Manager, Certificates and Tariffs, at (801) 584–7117, Northwest Pipeline Corporation, P.O. Box 58900, Salt Lake City, Utah 84158.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 4, 2002 file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to any proceeding must file a motion to intervene in accordance with the Commission's rules. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered, a person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by Commenters or those requesting intervenor status. Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate authority is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised it, will be unnecessary for Northwest to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21845 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–496–000]

Pine Needle LNG Company, LLC; Notice of Request for Waiver

August 21, 2002.

Take notice that on August 1, 2002, Pine Needle LNG Company, LLC (Pine Needle) tendered for filing a request for waiver to comply with Order No. 587–O and certain North American Energy Standards Board (NAESB) Standards. Pine Needle asserts that it sought and received an exemption from the imbalance netting and trading requirements of Order No. 587–L, which the Commission granted on October 27, 2000. Pine Needle states that subsequently, the Commission issued Order No. 587–O which requires pipelines to comply with NAESB Version 1.5, including standards relating to imbalance netting and trading, *i.e.*, Standards 2.4.9–2.4.16. Pine Needle alleges that since it has been granted an exemption from providing imbalance netting and trading to shippers on its system and believes it unnecessary to comply with standards related to this service, Pine Needle therefore requests wavier of the Version 1.5 Standards related to imbalance netting and trading. Pine Needle also indicates that it does not offer any transportation services. Pine Needle contends that because the title transfer tracking standards required by Order No. 587–O relate to transportation services, these standards are not applicable to a system only offering storage services, therefore, Pine Needle requests a waiver of these standards. The issues raised by Pine Needle in its August 1, 2002 filing regarding waiver of Order No. 587–O will be addressed in the above-docketed proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before August 29, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21863 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–018]

Questar Pipeline Company; Notice of Negotiated Rate Tariff Filing

August 21, 2002.

Take notice that on August 14, 2002, Questar Pipeline Company's (Questar) filed a tariff filing to implement a negotiated-rate contract for Dominion Exploration & Production, Inc. and delete an expired contract with BP Energy Company as authorized by Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99–513, *et al.* The Commission approved Questar's request to implement a negotiated-rate option for Rate Schedules T–1, NNT, T–2, PKS, FSS and ISS shippers. Questar submitted its negotiated-rate filing in accordance with the Commission's Policy Statement in Docket Nos. RM95–6–000 and RM96–7–000 (Policy Statement) issued January 31, 1996.

Questar states that a copy of this filing has been served upon all parties to this proceeding, Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21854 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–420–000, CP02–421–000, and CP02–422–000]

Red Lake Gas Storage, L.P.; Notice of Application

August 21, 2002.

On August 9, 2002, Red Lake Gas Storage, L.P. (Red Lake), located at 1100 Walnut Street, Suite 3300, Kansas City, Missouri, 64106, filed an application in the above referenced dockets, pursuant to Section 7(c) of the Natural Gas Act (NGA), and Parts 157 and 284 of the Federal Energy Regulatory Commission's (Commission) Rules and Regulations for: (1) A certificate of public convenience and necessity authorizing Red Lake to develop, construct, own, operate, maintain, and abandon a natural gas storage facility capable of delivering 900,000 Decatherms per day (Dth/d) and consisting of storage caverns and other associated and appurtenant facilities; (2) a blanket certificate pursuant to Part 284, Subpart G, authorizing Red Lake to provide storage and hub services on behalf of others; (3) a blanket certificate pursuant to part 157, subpart F, authorizing Red Lake to develop, construct, acquire, own, operate, maintain, and abandon additional facilities following construction of the facilities for which authorization is being sought under Part 157, Subpart A; (4) authorization to provide storage and hub services at market-based rates; and (5) a blanket sales certificate pursuant to Part 284, Subpart J to provide unbundled sales services for the limited purpose of disposing of gas that shippers may fail to remove or excess fuel gas from operations. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659.

Red Lake further request approval of its FERC Gas Tariff contained in Exhibit P of the application. Red Lake also requests the Commission (1) waive the requirement pursuant to Part 284.7(e) that Red Lake charge reservation fees for firm service recovering fixed costs based on the straight fixed variable rate design methodology; (2) waive the requirements of 157.14 with respect to Exhibits K, L, N, and O; (3) waive the accounting and reporting requirements under Parts 201 and 260.2; (4) waive the requirement to provide total gas supply information, pursuant to 157.14(a)(10); and (5) waive all other regulations to the extent such waivers may be necessary to grant each of the authorizations in the application.

Red Lake requests the Commission grant confidential treatment for certain material contained in the application. Red Lake asks the Commission to issue a preliminary determination on the non-environmental aspects of the facility by December 18, 2002 and a final certificate as soon as possible thereafter, so that Red Lake would be able to commence with storage and hub services on November 1, 2003.

The storage facilities which Red Lake seeks to construct and operate will be located in Mohave County, Arizona. The facilities will consist of two high deliverability storage caverns, 31 miles of header pipeline, 33,000 horsepower compressor station, and appurtenant facilities. The facility will have approximately 900,000 Dth/d of deliverability, 450,000 Dth/d of injection capability, and a total working gas capacity of 12,000 MMcf. The facility will interconnect with the interstate pipelines of El Paso Natural Gas Company, Transwestern Pipeline Company, and Southern Trails Pipeline.

Red Lake proposes to provide firm and interruptible storage service pursuant to Part 284 of the Commission's regulations. Red Lake also requests authorization to provide storage and hub service at market-based rates. The open season, held by Red Lake's affiliate, Aquila Storage, resulted in non-binding precedent agreements for over 69% of the facility's storage capacity.

Any questions regarding this application should be directed to Mark D. Cook, Red Lake Gas Storage, L.P., 909 Fannin, Suite 1850, Houston, Texas 77010, phone: (713) 336–7423, fax: (713) 336–7403.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 11, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a

motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the nonparty commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21844 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–122–000]

Sithe Power Marketing, L.P., and Exelon Generation Company, LLC, Complainants, v. ISO New England, Inc., Respondent; Notice of Complaint

August 21, 2002.

Take notice that on August 19, 2002, Sithe Power Marketing, L.P., and Exelon Generation Company, LLC, tendered for filing with the Federal Energy Regulatory Commission (Commission) a complaint under Sections 206 and 306 of the Federal Power Act, 18 U.S.C. § 824e and 825e, and Rule 206 of the Commission's Rules and Regulations, 18 CFR 385.206, against ISO New England, Inc. (ISO–NE) requesting the Commission to direct the ISO–NE to preserve Sithe's rollover rights in accordance with the ISO–NE tariff and the Commission's policies.

Any person desiring to be heard or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. The answer to the complaint and all comments, interventions or protests must be filed on or before September 9, 2002. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. The answer to the complaint, comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21847 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2216–000]

Southern Company Services, Inc.; Notice of Fiilng

August 21, 2002.

Take notice that on July 30, 2002, Southern Company Services, Inc. (SCS) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to Southern Companies' Open Access Transmission Tariff, Schedule 7B Original Sheet Nos. 109A–109C; and revised standard form agreement for Recallable Firm Service, Original Sheet Nos. 117A–117B. These amendments are attached to SCS' Answer to Comments and Protests as Exhibits 1 and 2.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: August 29, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21848 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–33–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

August 21, 2002.

Take notice that on August 8, 2002, Tennessee Gas Pipeline Company (''Tennessee'') filed revised tariff sheets to offer its customers greater flexibility with respect to submitting bids during an open season under XXVIII of its General Terms and Conditions of its FERC Gas Tariff, Fifth Revised Volume 1. Specifically, Tennessee proposes to revise its tariff to allow it to specify in its open season posting different acceptable notice periods applicable to bids of Reduction Options. Tennessee requests an effective date of September 8, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21849 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–460–003]

Total Peaking Services, L.L.C.; Notice of Compliance Filing

August 21, 2002.

Take notice that on August 14, 2002, Total Peaking Services, L.L.C. (Total Peaking) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised Sheet No. 86, with an effective date of August 1, 2001.

Total Peaking states that the filing is being made in compliance with the Commission's Order on Order No. 637 Compliance Filing issued in this docket on June 4, 2001, and in response to the letter Order in this docket issued August 6, 2002.

Total Peaking represents that these sheets are consistent with the August 15, 2000 Compliance Filing that was accepted by the Commission in the June 4, 2001 Order. These sheet replaces an erroneous tariff sheet that was filed on March 1, 2002 and rejected in the August 6, 2002 letter Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21855 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–479–001]

Vector Pipeline L.P.; Notice of Proposed Changes in FERC Gas Tariff

August 21, 2002.

Take notice that on August 9, 2002, Vector Pipeline L.P. (Vector), tendered for filing revised tariff sheets to its FERC Gas Tariff, Volume No. 1, to take the place of tariff sheets submitted on August 1, 2002 which are now withdrawn by Vector. Vector requests that the revised tariff sheets become effective October 1, 2002. Vector states that the purpose of this filing is to comply with the Commission's mandates in Order No. 587–O.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document.

For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21862 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–424–000]

Westpan Resources L.P.; Notice of Petition

August 21, 2002.

On August 12, 2002, Westpan Resources L.P., (Westpan), pursuant to Rule 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207, filed a petition for a declaratory order in Docket No. CP02–424–000 requesting that the Commission declare certain onshore natural gas gathering and related facilities located in the Panhandle Field of Texas as gas gathering facilities exempt from the Commission's jurisdiction under section 1(b) of the Natural Gas Act (NGA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659.

Westpan states that its affiliate, Pioneer Natural Resources USA, Inc. (Pioneer) is to acquire from Colorado Interstate Gas Company (CIG) under an April 13, 2002 Gathering Assets Purchase and Sale Agreement (PSA) certain onshore natural gas gathering and related facilities. Westpan has stated that neither it nor Pioneer are affiliated with CIG, and neither are natural gas companies subject to the Commission's jurisdiction under the NGA. Under the PSA, Pioneer is entitled to designate the entity that will hold the assets that are the subject of the PSA and that entity will be its affiliate, Westpan. Westpan states that the facilities to be transferred to it under the PSA are nonjurisdictional gathering facilities exempt from the Commission's jurisdiction under NGA Section 1(b).

Pioneer and CIG have entered into the PSA for the transfer of facilities at a purchase price of $19.5 million. The facilities to be transferred to Westpan under the PSA are located in the Panhandle Field in Carson, Moore, Potter, Hartley, Hutchinson and Oldham Counties, Texas. Westpan states that the transfer of facilities will consist of: (i) Approximately 700 miles of onshore gathering pipeline ranging in diameter from 2-inches to 24-inches with approximately 781 wells attached; (ii) 18 Panhandle Field Compressor (PFC) stations totaling approximately 49,000 horsepower; (iii) approximately 42 miles of certificated fuel gas lines ranging in diameter from 1-inch to 20-inches; and (iv) miscellaneous appurtenant facilities.

This petition is a companion filing to CIG's Application for Permission and Approval to Abandon the Panhandle Gathering System by sale to Pioneer filed on July 31, 2002, in Docket No. CP02–417–000, wherein CIG demonstrates that the subject facilities are nonjurisdictional gathering facilities to which abandonment under Section 7(b) of the NGA is warranted. Wholly consistent with the abandonment application, Westpan states that these subject facilities are nonjurisdictional gathering facilities and is petitioning the Commission for a declaratory order disclaiming jurisdiction.

Any questions concerning this petition may be directed to Bruce F. Kiely, Mark K. Lewis, Mark J. O'Brien, Baker Botts LLP, The Warner, 1299 Pennsylvania Ave., NW., Washington, DC 20004–2400 at (202) 639–7700 or Mark L. Withrow, Pioneer Natural Resources USA, Inc., Executive Vice President and General Counsel, 5205 N. O'Connor Blvd, Suite 1400, Irving, TX 75039–3746 at (972) 969–4090.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 11, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community

and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21846 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–384–000 and CP01–387–000]

Islander East Pipeline Company, L.L.C., Algonquin Gas Transmission Company; Notice of Availability of the Final Environmental Impact Statement for the Proposed Islander East Pipeline Project

August 21, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this final Environmental Impact Statement (EIS) on the natural gas pipeline facilities proposed by Islander East Pipeline Company, L.L.C. (Islander East) and Algonquin Gas Transmission Company (Algonquin) in the above-referenced docket.

The final EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The staff concludes that approval of the proposed Project with appropriate mitigating measures, as recommended, would result in limited adverse environmental impacts. The final EIS evaluates alternatives to the proposal, including system alternatives, route alternatives, and route variations.

The final EIS assesses the potential environmental effects of the construction and operation of the following facilities in New Haven County, Connecticut and Suffolk County, New York.

Algonquin's facilities would consist of:

- A new 12,028 horsepower Cheshire Compressor Station in New Haven County, Connecticut;
- The removal of two launchers from an existing mainline valve and interconnect facility in New Haven County, Connecticut;
- Retest and upgrade of about 27.4 miles of the existing C–1 and C–1L mainline in New Haven County, Connecticut; and
- An anomaly investigation along about 0.1 mile of the C–1 and C–1L mainline in New Haven County, Connecticut.

Islander East's facilities would consist of:

- About 44.8 miles of 24-inch-diameter pipeline from New Haven County, Connecticut to KeySpan Energy's existing facility in Suffolk County, New York;
- About 5.6 miles of 24-inch-diameter pipeline (the Calverton Lateral) in Suffolk County, New York to a planned power plant in Calverton, New York;
- Three new meter stations: the North Haven Meter Station, the Brookhaven Meter Station, and the AES Calverton Meter Station; and
- Five mainline valves (two in Connecticut and three in New York).

The purpose of the Islander East Pipeline Project is to provide transportation service for 285,000 dekatherms per day of natural gas from supply areas, including eastern Canada, to energy markets in Connecticut and New York (specifically Long Island and New York City).

The final EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Regulatory Energy Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

A limited number of copies of the final EIS are available from the Public Reference and Files Maintenance Branch identified above. In addition, the final EIS has been mailed to Federal, state, and local agencies, elected officials, public interest groups, individuals, and affected landowners who requested a copy of the final EIS; public libraries; newspapers; and parties to this proceeding.

In accordance with the Council on Environmental Quality's (CEQ) regulations implementing the National Environmental Policy Act, no agency decision on a proposed action may be made until 30 days after the U.S. Environmental Protection Agency publishes a notice of availability of an FEIS. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal appeal process which allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time the notice of the FEIS is published, allowing both periods to run concurrently. The Commission decision for this proposed action is subject to a 30-day rehearing period.

Additional information about the proposed project is available from the Commission's Office of External Affairs at 1–866–208–FERC (1–866–208–3372) or on the FERC Web site (*http://www.ferc.gov*).[1] Click on the ''FERRIS'' link, enter the docket number excluding the last three digits in the [Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at (202) 502–8222, TTY (202) 208–1659. The application and supplemental filings in these dockets are available for viewing on FERRIS.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21843 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11942–001]

Hammond Hydroelectric Company; Notice of Surrender of Preliminary Permit

August 22, 2002.

Take notice that Hammond Hydroelectric Company, permittee for the proposed Big Creek Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on July 30, 2001, and would have expired on June 30, 2004. The project would have been located on Big Creek in Custer and Lemhi Counties, Idaho.

The permittee filed the request on July 24, 2002, and the preliminary permit for Project No. 11942 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall

[1] On October 11, 2001, the Commission announced that, as the result of the September 11 terrorist attacks, the FERC would limit access to certain public documents (PL01–2–000). Documents containing specific information on energy facilities would not be available through its web site or on its public reference room. Individuals requiring such information are directed to file Freedom of Information Act (FOIA) requests.

remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21901 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Temporary Variance Request and Soliciting Comments, Motions To Intervene, and Protests

August 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request for Temporary Variance of Minimum Flow Requirement.

b. *Project No.:* 405–056.

c. *Date Filed:* August 15, 2002.

d. *Applicant:* Susquehanna Electric Company.

e. *Name of Project:* Conowingo Project.

f. *Location:* On the Susquehanna River, in Harford and Cecil Counties, Maryland and York and Lancaster Counties, Pennsylvania. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* John J. McCormick, Jr., Plant Manager, Susquehanna Electric Company, 2569 Shures Landing Road, Darlington, MD 21034, (410) 457–2401.

i. *FERC Contact:* John K. Novak, john.novak@ferc.gov, (202) 502–6076.

j. *Deadline for filing comments, motions to intervene and protest:* September 6, 2002.

Please include the project number (P–405–056) on any comments or motions filed. All documents (original and seven copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper, see 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under the ''e-filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–405–056) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Application:* Susquehanna Electric Company (SEC) has requested Commission approval of a variance of the minimum flow requirement of the project license. Due to drought conditions and low river flows in the Susquehanna River, SEC requests that it be allowed immediately to include plant leakage of about 800 cubic feet per second (cfs) in the required minimum flow discharge until November 30, 2002, or until flow conditions improve where the Conowingo Project no longer requires leakage be included as part of the minimum flow requirement. According to the license, for the period June 1 through September 14, annually, SEC must provide a minimum flow release (not including leakage) below the dam of 5,000 cfs, or inflow (as measured at the USGS gage at Marietta, PA), whichever is less. During the fall period, September 15 through November 30, SEC is required to release a minimum flow of 3,500 cfs not including leakage, or inflow to the project whichever is less, as measured at the Marietta gage.

The SEC is concerned about the ability of the Conowingo Project to maintain an adequate pond level and storage capacity during the current low flow period. Maintaining storage is necessary for generation and to ensure an adequate water supply for recreational and consumptive uses of the Conowingo Reservoir to include operation of Peach Bottom Atomic Power Station and Muddy Run Pumped Storage Project. Including plant leakage in the minimum flow discharge will contribute to the maintenance of these project water uses during this low flow period. During the period of the minimum flow variance the SEC will conduct daily monitoring of the Susquehanna River below the project for potential environmental effects. If any abnormal or adverse conditions are observed the SEC will promptly notify the Maryland Department of Natural Resources.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's Web site at *http:www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance call (202) 502–8222 or for TTY (202) 208–1659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210. 385.211, and 385.2114. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATION FOR TERMS AND CONDITIONS'', ''PROTESTS, OR MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21902 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12194–000.

c. *Date filed:* June 10, 2002.

d. *Applicant:* Lost Creek Hydro, LLC.

e. *Name of Project:* Lost Creek Dam Project.

f. *Location:* On Lost Creek, in Morgan County, Utah utilizing the Lost Creek Dam owned by the City of Bountiful, Utah.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208)745–0834, e-mail *npsi@nwpwrservices.com*.

i. *FERC Contact*: Robert Bell, (202) 219–2806.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12194–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) An existing 1,110-foot-long, 173-foot-high concrete dam, (2) an existing reservoir having a surface area of 415 acres with storage capacity of 26,760 acre-feet and normal water surface elevation of 184 feet msl, (3) a proposed 300-foot-long, 42-inch-diameter steel penstock, (4) a proposed powerhouse containing one generating unit having an installed capacity of 1 MW, (5) a proposed 12-mile-long, 25 kV transmission line, and (6) appurtenant facilities.

Applicant estimates that the average annual generation would be 4.092 GWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659. A copy is also available for inspection and reproduction at Lost Creek Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for

filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21903 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12204–000.

c. *Date filed:* June 5, 2002.

d. *Applicant:* Lake Oswego Hydro, LLC.

e. *Name of Project:* Lake Oswego Project.

f. *Location:* On the Tualatin River, in Clackamas County, Oregon utilizing the Lake Oswego Dam owned by the Lake Oswego Corporation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208)745–0834, e-mail *npsi@nwpwrservices.com*.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12204–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) An existing 120-foot-long, 32-foot-high gravity dam, (2) an existing reservoir having a surface area of 433 acres with storage capacity of 9,800 acre-feet and normal water surface elevation of 108 feet msl, (3) a proposed 1,100-foot-long, 96-inch-diameter steel penstock, (4) a proposed powerhouse containing one generating unit having an installed capacity of 5.85 MW, (5) a proposed 1-mile-long, 15 kV transmission line, and (6) appurtenant facilities.

Applicant estimates that the average annual generation would be 25.6 GWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659. A copy is also available for inspection and reproduction at Lake Oswego Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to

intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21904 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12212–000.

c. *Date filed:* June 6, 2002.

d. *Applicant:* Savannah River Resource Enhancement, LLC.

e. *Name of Project:* New Savannah Bluff Project.

f. *Location:* On the Savannah River, in Aiken County, South Carolina and Richmond County, Georgia utilizing the New Savannah Bluff Lock and Dam administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Charles B. Mierek, Savannah River Resource Enhancement, LLC, 5250 Clifton-Glendale Road, Spartanburg, SC 29307, (864)579–4405.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12212–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' New Savannah Bluff Lock and Dam and would consist of: (1) A proposed 2000-foot-long, 50-foot-wide headrace canal, (2) a proposed powerhouse containing two generating units having a total installed capacity of 7.2 MW, (3) a proposed tailrace, (4) a proposed 4-mile-long, 46 kV South Carolina transmission line and 4-mile long, 13.8 kV Georgia transmission line, and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 45 GWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original

and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21905 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12214–000.

c. *Date filed:* June 13, 2002.

d. *Applicant:* Howard Hanson Hydro, LLC.

e. *Name of Project:* Howard A. Hanson Dam Project.

f. *Location:* On the Green River, in King County, Washington utilizing the Howard A. Hanson Dam owned by the City of Tacoma, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–0834, e-mail *npsi@nwpwrservices.com.*

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12214–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) An existing 500-foot-long, 235-foot-high concrete dam, (2) an existing reservoir having a surface area of 20,000 acres with storage capacity of 136,700 acre-feet and normal water surface elevation of 1,141 feet msl, (3) a proposed 500-foot-long,120-inch-diameter steel penstock, (4) a proposed powerhouse containing two generating units having a total installed capacity of 24.5 MW, (5) a proposed 1-mile-long, 25 kV transmission line, and (6) appurtenant facilities.

Applicant estimates that the average annual generation would be 85.296 GWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659. A copy is also available for inspection and reproduction at Howard Hanson Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified

comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21906 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12219–000.

c. *Date filed:* June 17, 2002.

d. *Applicant:* Caddo Hydro, LLC.

e. *Name of Project:* Caddo Dam Project.

f. *Location:* On the Cypress Bayou, in Caddo County, Louisiana utilizing the Caddo Dam administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–0834, e-mail *npsi@nwpwrservices.com.*

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12219–000) on any comments or motions filed.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Caddo Dam and would consist of: (1) A proposed intake structure, (2) a proposed 200-foot-long, 108-inch-diameter steel penstock, (3) a proposed powerhouse containing one generating unit having an installed capacity of 1.5 MW, (4) a proposed 1-mile-long, 15 kV transmission line, and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 5 GWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659. A copy is also available for inspection and reproduction at Caddo Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to

take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21907 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12225–000.

c. *Date filed:* June 17, 2002.

d. *Applicant:* Felsenthal Hydro, LLC.

e. *Name of Project:* Felsenthal Lock and Dam Project.

f. *Location:* On the Owachita River, in Union County, Arkansas utilizing the Felsenthal Lock and Dam administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–0834, e-mail *npsi@nwpwrservices.com*.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12225–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed run-of-river project would utilize the existing U.S. Army Corps of Engineers' Felsenthal Lock and Dam and would consist of: (1) A proposed intake structure, (2) a proposed 250-foot-long, 144-inch-diameter steel penstock, (3) a proposed powerhouse containing two generating units having a total installed capacity of 5 MW, (4) a proposed 1-mile-long, 25 kV transmission line, and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 18 GWh and would be sold to a local utility.

l. *Location of filing:* This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659. A copy is also available for inspection and reproduction at Felsenthal Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation

of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21908 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12231–000.

c. *Date filed:* June 17, 2002.

d. *Applicant:* Lake Fork Hydro, LLC.

e. *Name of Project:* Lake Fork Dam Project.

f. *Location:* On Lake Fork Creek, inWood County, Texas utilizing the Lake Fork Dam owned by the Sabine River Authority.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–0834, e-mail *npsi@nwpwrservices.com*.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12231–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) An existing 12,600-foot-long, 82-foot-high concrete dam, (2) an existing reservoir having a surface area of 28,554 acres with storage capacity of 1,048,480 acre-feet and normal water surface elevation of 403 feet msl, (3) a proposed 200-foot-long, 96-inch-diameter steel penstock, (4) a proposed powerhouse containing one generating unit having an installed capacity of 2.5 MW, (5) a proposed 1-mile-long, 25 kV transmission line, and (6) appurtenant facilities.

Applicant estimates that the average annual generation would be 3.3 GWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659. A copy is also available for inspection and reproduction at Lake Fork Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit

application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.

Deputy Secretary

[FR Doc. 02–21909 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12269–000.

c. *Date filed:* June 25, 2002.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Point Marion L & D Project.

f. *Location:* On the Monogahela River in Garrett and Fayette Counties, Pennsylvania. The existing Point Marion Lock and Dam is administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115, e-mail *uep@neo.rr.com*.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12269–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project utilizing the existing U.S. Army Corps of Engineer's Point Marion Lock and Dam and reservoir would consist of: (1) A new powerhouse to be constructed on the tailrace side of the dam having an installed capacity of 3,100 kilowatts; (2) a new transmission line; and (3) appurtenant facilities.

Applicant estimates that the average annual generation would be 19 GWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business

address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21910 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 22, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12273–000.

c. *Date filed:* June 25, 2002.

d. *Applicant:* Chittenden Hydro, LLC.

e. *Name of Project:* Hiram M. Chittenden L&D Project.

f. *Location:* On the Lake Washington Ship Canal, in King County, Washington utilizing the Hiram M. Chittenden Lock and Dam administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–0834, e-mail *npsi@nwpwrservices.com.*

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12273–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Hiram M. Chittenden Lock and Dam and would consist of: (1) A proposed intake structure, (2) a proposed 50-foot-long, 156-inch-diameter concrete penstock, (3) a proposed powerhouse containing one generating unit having an installed capacity of 5 MW, (4) a proposed 1-mile-long, 25 kV transmission line, and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 23 GWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659. A copy is also available for inspection and reproduction at Chittenden Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person

to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21911 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–111–000]

Midwest Independent System Operator, PJM Interconnection, L.L.C., et al.; Notice of Settlement Conference

August 22, 2002.

Pursuant to Rule 601 of the Commission's Rules of Practice and Procedure, 18 CFR 385.601, a settlement conference in the above docketed proceeding will be held on September 5, 2002, to address the issue of eliminating rate pancaking between the Midwest ISO and PJM, as discussed in the Commission's July 31, 2002 order, 100 FERC ¶ 61,137 (paragraphs 49–52, and ordering paragraphs D and E). The conference will begin at 10 a.m. in Room 3M–2A&B at the Commission headquarters, 888 1st St., NE., Washington, DC 20426.

Steven A. Rothman, with the Commission's Dispute Resolution Service, will mediate the conference. He will be available to communicate in private with any party prior to the conference. If a party has any questions regarding the conference, please call Steven Rothman at (202) 502–8643 or send an e-mail to *Steven.Rothman@ferc.gov*. Parties may also communicate with Richard Miles, the Director of the Commission's Dispute Resolution Service at 1 (877) FERC–ADR (337–2237) or (202) 502–8702 and his e-mail address is *Richard.Miles@ferc.gov*.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21900 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–12–000]

Standard Market Design Data and Software Standards; Notice of Follow-Up Staff Conference

August 22, 2002.

As announced at the July 18, 2002 Standard Market Design Data and Software Conference, the Federal Energy Regulatory Commission (Commission) will hold a follow-up conference to continue our efforts to standardize inputs and outputs for the software used to support electric grid and market operations under the Standard Market Design initiative. The conference will be held on October 3, 2002, starting at 9 a.m. at the FERC, 888 First St. NE., in Washington D.C., in the Commission Meeting Room.

The goal of the conference will be to further understand what steps are necessary to assure that the software developed to support SMD is of the highest possible quality, and is compatible and consistent across vendors and market regions. Some degree of standardization with respect to input and output data, elements and formats will be needed; however, this standardization must not constrain either competition between vendors nor innovation in software capabilities or approaches. FERC believes that we also need to develop a set of model test problems to use for testing, evaluating, and comparing electric market software products.

To this end, the conference will explore whether the work already developed for the Ontario market operations is a useful starting point, and review the process the Ontario Energy Board used to develop their standards and software. We will invite key organizations working on software issues to present status reports on their areas of focus and expertise and the status of and industry support for their efforts; this will include a discussion of whether these are the proper players and processes to move ahead. Next, we will discuss what additional steps, processes, and organizations are needed to assure that appropriate

standardization of software inputs, outputs and test problems is achieved. We will seek industry and participant agreement and commitment to these processes.

We will issue a detailed agenda for the conference, with links to relevant documents and organizations, in mid-September.

All interested parties are invited to attend. There is no registration or fee.

The conference will be transcribed. Those interested in acquiring the transcript should contact Ace Reporters at 202–347–3700, or 800–336–6646. Transcripts will be placed in the public record ten days after the Commission receives the transcripts. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and click on ''FERC.''

For additional information, please contact René Forsberg at 202–502–8425 or *René.Forsberg@ferc.gov*.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21912 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–123–000]

Boston Edison Company; Order Instituting Investigation and Establishing Hearing and Settlement Judge Procedures

Issued August 22, 2002.

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt; and Nora Mead Brownell.

1. On June 20, 2002, in Docket No. ER02–2127–000, Boston Edison Company (Boston Edison) submitted for filing unexecuted Service Agreements for the Town of Concord, Massachusetts Municipal Light Department (Concord) and the Town of Wellesley Municipal Light Department (Wellesley) (collectively, Towns) to take local network transmission service (LNS) pursuant to Boston Edison's open access transmission tariff (OATT). These Service Agreements became effective on June 20, 2002.

2. As discussed below, we will institute an investigation of the reasonableness of these Service Agreements. We will establish hearing procedures but hold the hearing in abeyance pending settlement judge procedures. This order benefits customers because it allows the parties to participate in a hearing and/or settlement procedures to determine just and reasonable rates.

Background

3. Boston Edison previously has provided bundled requirements service, both generation and transmission services, to both Towns under all-requirements ''S'' rates, and since May 1993, such bundled service has been provided under individually negotiated agreements (Concord PPA and Wellesley PPA). These PPAs expired on May 31, 2002. Since June 1, 2002, a new supplier has provided generation service to both Towns, and they now take transmission separately from generation. Boston Edison's filing in Docket No. ER02–2127–000 proposed rates, terms and condition for LNS service to Concord and Wellesley; the Service Agreements became effective on June 20, 2002.

Discussion

4. Our preliminary analysis indicates that the Service Agreements for Concord and Wellesley may not be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, pursuant to section 206 of the Federal Power Act (FPA),[1] we will initiate an investigation of the reasonableness of these Service Agreements. Where, as here, the Commission initiates a section 206 investigation on its own motion, section 206(b) requires that the Commission establish a refund effective date anywhere from 60 days after publication in the **Federal Register** of notice of its intent to initiate a proceeding to 5 months after the expiration of the 60-day period. In order to give maximum protection to customers, and consistent with our precedent,[2] we will establish the refund date at the earliest date allowed. This date will be 60 days from the date on which notice of the initiation of the investigation is published in the **Federal Register**.

5. Section 206(b) also requires that if no final decision is rendered in the Commission's investigation by the refund effective date or by the conclusion of the 180-day period commencing upon the initiation of a proceeding pursuant to section 206, whichever is earliest, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonable expects to make such a decision. Therefore, we will direct the presiding judge or settlement judge, as appropriate, to provide a report to the Commission no later than 15 days in advance of the refund effective date in the event the presiding judge or settlement judge, as appropriate, has not by that date issued an initial decision or certified to the Commission a settlement which, if accepted would dispose of the proceeding. The judge's report, if required, shall advise the Commission of the status of the investigation and provide an estimate of the expected date of issuance of an initial decision or certification of a settlement. This, in turn, will allow the Commission, on or before the refund effective date, to estimate the date when it expects to render its decision.

6. In order to provide the parties an opportunity to resolve these matters amicably, we will hold the hearing in abeyance and direct settlement judge procedures pursuant to Rule 603 of the Commission's Rules of Practice and Procedures.[3] If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in this proceeding; otherwise, the Chief Judge will select a judge for this purpose.[4] The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of this order concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

The Commission Orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the

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[1] 16 U.S.C. 824e (1994).

[2] See, *e.g.*, Canal Electric Co., 46 FERC ¶ 61,153, reh'g denied, 47 FERC ¶ 61,275 (1989).

[3] 18 CFR 385.603 (2002).

[4] If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 219–2500 within five days of this order. FERC's Web site contains a listing of the Commission's judges and a summary of their background and experience. (*www.ferc.fed.us*—click on Office of Administrative Law Judges).

Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held in Docket No. EL02–123–000 concerning the reasonableness of the Service Agreements. However, the hearing will be held in abeyance while the parties attempt to settle, as provided in paragraphs (C) and (D) below.

(B) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 CFR 385.603 (2002), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within 15 days of the date of this order. The designated settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable.

(C) Within 30 days of the date of this order, the settlement judge shall issue a report to the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their efforts or, if appropriate, provide for a formal hearing by assigning the case to a presiding judge. If settlement judge procedures are continued, the settlement judge shall issue a report at least every 30 days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(D) If settlement judge procedures fail and a formal hearing is to be held, a presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within approximately fifteen (15) days of the date of the settlement judge's report to the Commission in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish a notice of the Commission's initiation of the proceeding in Docket No. EL02–123–000 in the **Federal Register**.

(F) The refund effective date in Docket No. EL02–123–000, established pursuant to section 206(b) of the FPA, shall be 60 days following publication in the **Federal Register** of the notice discussed in Ordering Paragraph (E) above.

(G) The presiding judge or settlement judge, as appropriate, shall advise the Commission, no later than 15 days prior to the refund effective date established in Docket No. EL02–123–000, in the event that the presiding judge or settlement judge, as appropriate, has not by that date certified to the Commission a settlement, which, if accepted, would dispose of the proceeding or issued an initial decision, as to the status of the proceeding and a best estimate when the proceeding will disposed of by the presiding judge.

By the Commission.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21897 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–497–000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

August 21, 2002.

Take notice that on August 14, 2002, Transcontinental Gas Pipe Line Corporation (Transco) filed a report reflecting the flow through of refunds received from Dominion Transmission, Inc.

On August 14, 2002, in accordance with Section 3 of its Rate Schedule GSS, Transco states that it refunded to its GSS customers $34,789.48 resulting from the refund of Dominion Transmission, Inc. Annual Overrun/Penalty Revenue Distribution. The refund covers the period from September 2001 to March 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before August 28, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21864 Filed 8–27–02; 8:45 am]

BILLING CODE 6717–01–P

ENVRIONMENTAL PROTECTION AGENCY

[FRL–7269–4]

Meeting of the Mobile Sources Technical Review Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee of the Clean Air Act Advisory Committee will meet three times annually. This is an open meeting. The theme will be ''Fuel Cells and Biodiesel Fuels'' and will include presentations from EPA and other outside organizations. The preliminary agenda for this meeting will be available on the Subcommittee's Web site in early October. Draft minutes from the previous meetings are available on the Subcommittee's Web site now at: *http://epa.gov/air/caaac/mobile_sources.html.*

DATES: Wednesday, October 16, 2002 from 9 am. to 3:30 pm. Registration begins at 8:30 am.

ADDRESSES: The meeting will be held at the Marriott Dearborn Inn Hotel, 20301 Oakwood Boulevard, Dearborn, MI, 48124.

FOR FURTHER INFORMATION CONTACT:

For technical information: Ms. Cheryl L. Hogan, Alternate Designated Federal Officer, Certification and Compliance Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214–4402, FAX: 734/214–4053, e-mail: *hogan.cheryl@epa.gov.*

For logistical and administrative information: Ms. Mary F. Green, FACA Management Officer, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, Michigan, Ph: 734/214–4411, Fax: 734/214–4053, e-mail: *green.mary@epa.gov.*

Background on the work of the Subcommittee is available at: *http://transaq.ce.gatech.edu/epatac.*

For more current information: *http://epa.gov/air/caaac/mobile_sources.html.*

Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Ms. Hogan at the address above by September 30, 2002. The Mobile Sources Technical Review Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

SUPPLEMENTARY INFORMATION: During this meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

Dated: August 21, 2002.

Margo T. Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. 02–21947 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0138; FRL–7194–2]

Carbaryl; Availability of Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of documents that were developed as part of EPA's process for making pesticide reregistration eligibility decisions and tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These documents are the human health and environmental fate and effects risk assessments and related documents for carbaryl. This notice also starts a 60–day public comment period for the risk assessments. Comments are to be limited to issues directly associated with carbaryl and raised by the risk assessment or other documents placed in the docket. By allowing access and opportunity for comment on the risk assessment, EPA is seeking to strengthen stakeholder involvement and help ensure that our decisions under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply. The Agency cautions that the risk assessments for carbaryl are preliminary and that further refinements may be appropriate. Risk assessments reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

DATES: Comments, identified by the docket ID number OPP–2002–0138 carbaryl, must be received on or before October 28, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0138 for carbaryl in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Anthony Britten, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8179; e-mail address: britten.anthony@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to a wide range of stakeholders, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get 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/. 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/. In addition, copies of the risk assessment and certain related documents for carbaryl may also be accessed at http: www.epa.gov/pesticides/reregistration/status.htm.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0138. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0138 for carbaryl in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described

above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0138. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

EPA is making available risk assessments that have been developed as part of the Agency's public participation process for making reregistration eligibility and tolerance reassessment decisions for the organophosphate and other pesticides consistent with FFDCA, as amended by FQPA. The Agency's human health and environmental fate and effects risk assessments and other related documents for carbaryl are available in the individual pesticide docket. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed for carbaryl.

The Agency cautions that the carbaryl risk assessments are preliminary and that further refinements may be appropriate. Risk assessment documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

EPA is providing an opportunity, through this notice, for interested parties to provide written comments and input to the Agency on the risk assessment for the pesticide specified in this notice. Such comments and input could address, for example, the availability of additional data to further refine the risk assessments, such as percent crop treated information or submission of residue data from food processing studies, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific chemical. Comments should be limited to issues raised within the risk assessment and associated documents. EPA will provide other opportunities for public comment on other science issues associated with the pesticide tolerance reassessment program. Failure to comment on any such issues as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments should be submitted by October 28, 2002 using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**. Comments will become part of the Agency record for carbaryl.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: August 15, 2002.

Betty Shackleford,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–21586 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0205; FRL–7193–7]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing a new active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket ID number OPP–2002–0205, must be received on or before September 27, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0205 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Raderrio Wilkins, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–1259 and e-mail address: wilkins.raderrio@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	Crop production Animal production

Categories	NAICS codes	Examples of potentially affected entities
	311	Food manufacturing
	32532	Pesticide manufacturing

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0205. 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.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0205 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), OPP, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0205. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received an application as follows to register a pesticide product containing an active ingredient not included in any previously registered product pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of this application does not imply a decision by the Agency on the application.

Product Containing an Active Ingredient not Included in any Previously Registered Product

. *File Symbol*: 070057–R. *Applicant*: Natural Plant Protection, c/o Technology Science Group, Inc., 4061 North 156th Drive, Goodyear, AZ 85338. *Product name*: Biomite™. *Active ingredient*: Citronellol (3,7-dimethyl-6-octen-1-ol). The product also contains the already registered active ingredients: Geraniol (2-trans-3,7-dimethyl-2,6-octadien-1-ol), Nerolidol (3,7,11-trimethyl-1,6,10-dodecatrien-3-ol), and Farnesol (3,7,11-trimethyl-2,6,10-dodecatrien-1-ol). *Proposed classification/Use*: None. Biochemical pesticide to control mites on agricultural crops, ornamental plants, and in professional landscape settings.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: August 16, 2002.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 02–21752 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0161; FRL–7189–4]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by February 24, 2003, or unless indicated otherwise, orders will be issued canceling all of these registrations. Comments on registrations for EPA company numbers 000655, 001381, 005073, 007501, 045385 and 049585 must be received on or before September 27, 2002.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Information Resources Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5761; e-mail address: hollins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, 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** listing at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0161. 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 this official record, which includes printed, paper versions of any electronic comments submitted during as applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Room 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.

C. How and to Whom Do I Submit Withdrawal Requests?

You may submit withdrawal requests through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0161 in the subject line on the first page of your response.

By mail. Submit your withdrawal request to: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel [insertnumber] pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit:

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration no.	Product Name	Chemical Name
000228–00194	Riverdale 2,4-DP Technical Acid	2-(2,4-Dichlorophenoxy)propionic acid
000228–00291	Riverdale MCPP Technical Ioe	Isooctyl 2-(2-methyl-4-chlorophenoxy)propionate
000264–00651	Photon Fungicide	Triphenyltin hydroxide
000264 FL–87–0001	Mocap EC Nematicide-Insecticide Gas cartidge (as a device for burrowing animal control	O-Ethyl S,S-dipropyl phosphorodithioate
000432–01071	Automatic Sequential Food Plant Pressurized Spray	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
000432–01078	Alleviate 1–0.2 Food Plant Spray	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl- (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
000432–01080	Alleviate Fogging Spray	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl- (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
000432–01083	Alleviate 25–12.5	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl- (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
000432–01088	Alleviate Space Spray	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl- (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
000432–01098	Alleviate M.A.G.C. 5–2.5	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl- (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
000432–01102	Alleviate 25–5 17 A G C	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl- (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
000655–00393	Prentox Lindane Technical Crystals	Lindane (Gamma isomer of benzene hexachloride) 99% pure gamma isomer
000655–00615	Prentox Mosquito Yard Spray Concentrate	Methoxychlor (2,2-bis(p-methoxyphenyl)-1,1,1-trichloroethane) O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
000769–00599	R & M Dog and Cat Repellent Granules	Methyl nonyl ketone
000769–00879	Pratt Repel for Cats and Dogs	Methyl nonyl ketone
000769–20203	SMCP Bor/act Roach Control Agent	Boric acid
001381–00168	Granol N-M Insecticide and Fungicide Seed Treatment	Lindane (Gamma isomer of benzene hexachloride) 99% pure gamma isomer Manganese ethylenebis(dithiocarbamate)
002935–00492	Granol Flowable Insecticide and Fungicide Seed Treatmen	Lindane (Gamma isomer of benzene hexachloride) 99% pure gamma isomer Manganese ethylenebis(dithiocarbamate)
002935–00497	Granol Plus Flowable	Lindane (Gamma isomer of benzene hexachloride) 99% pure gamma isomer Manganese ethylenebis(dithiocarbamate) 2-(4'-Thiazolyl)benzimidazole
002935–00498	Granol Plus Insecticide and Fungicide Seed Treatment Fo	Lindane (Gamma isomer of benzene hexachloride) 99% pure gamma isomer Manganese ethylenebis(dithiocarbamate) 2-(4'-Thiazolyl)benzimidazole
005073–00018	Tox-O-Wik Insecticide Concentrate	Dipropyl isocinchomeronate N-Octyl bicycloheptene dicarboximide (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
005887–00078	Black Leaf Dog and Cat Repellent Granular	Methyl nonyl ketone
007173–00080	Rozol Ready-To-Use Rat and Mouse Bait	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173–00128	Rozol Rat and Mouse Killer	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173–00161	Rozol Rat and Mouse Killer Pellets	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007173–00171	Maki Rat and Mouse Meal Bait	3-(3-(4'-Bromo-(1,1'-biphenyl)-4-yl)-3-hydroxy-1-phenylpropyl)-4-hydroxy-2H-1-

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
007173–00186	Maki Rat and Mouse Meal Bait	3-(3-(4'-Bromo-(1,1'-biphenyl)-4-yl)-3-hydroxy-1-phenylpropyl)-4-hydroxy-2H-1-
007173–00190	Rozol Paraffin Blocks	2-((p-Chlorophenyl)phenylacetyl)-1,3-indandione
007501 ID–93–0004	Vitavax RS Flowable	Lindane (Gamma isomer of benzene hexachloride) 99% pure gamma isomer Tetramethyl thiuramdisulfide 5,6-Dihydro-2-methyl-1,4-oxathiin-3-carboxanalide
007501 MT–90–0006	Gustafson Vitavak-Thiram-Lindane Flowable Fungicide-Ins	Lindane (Gamma isomer of benzene hexachloride) 99% pure gamma isomer Tetramethyl thiuramdisulfide 5,6-Dihydro-2-methyl-1,4-oxathiin-3-carboxanalide
007501 ND–99–0003	MZ - Curzate	Gas cartidge (as a device for burrowing animal control) Zinc ion and manganese ethylenebisdithiocarbamate, coordination product 2-Cyano-N-((ethylamino)carbonyl)-2-(methoxyimino)acetamide
007501 ND–99–0008	Tops MZ Potato Seed-Piece Treatment Fungicide	Zinc ion and manganese ethylenebisdithiocarbamate, coordination product Dimethyl ((1,2-phenylene)bis(iminocarbonothioyl))bis(carbamate)
010182 LA–99–0008	Bravo 720	Tetrachloroisophthalonitrile
010807–00139	Trio	Hydrogen chloride (=hydrochloric acid, anhydrous) Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16) Didecyl dimethyl ammonium chloride Octyl decyl dimethyl ammonium chloride Dioctyl dimethyl ammonium chloride
034704–00287	Dot-Son Brand Stand -Aid	O,O-Diethyl S-(2-(ethylthio)ethyl) phosphorodithioate Pentachloronitrobenzene
034704–00475	Commercial Fertilizer with 0.625 Phosmetic D	O,O-Diethyl S-(2-(ethylthio)ethyl) phosphorodithioate
034704–00586	Tobacco Plant Bed Systemic Granules	O,O-Diethyl S-(2-(ethylthio)ethyl) phosphorodithioate
034704–00785	Systemic Rose and Flower Care with 1% Disyston	O,O-Diethyl S-(2-(ethylthio)ethyl) phosphorodithioate
045385–00087	Cenol Dairy Cattle Spray	Dipropyl isocinchomeronate N-Octyl bicycloheptene dicarboximide (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
049585–20201	Super K-Gro Roach Killer Powder	Boric acid
051036 TX–89–0011	Lanco Azinphos-Methyl 2 EC	O,O-Dimethyl S-((4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl) phosphorodithioate
062719 OK–91–0009	Remedy	Butoxyethyl triclopyr
063950–00003	Blue Circle (TM) Liquid	Burkholderia (pseudomonas) cepacia type Wisconsin isolate/strain J82
063950–00006	Blue Circle Liquid Biological Fungicide	Burkholderia (pseudomonas) cepacia type Wisconsin isolate/strain J82
063950–00007	Blue Circle Seed Treatment Biological Fungicide	Burkholderia (pseudomonas) cepacia type Wisconsin isolate/strain J82
063950–00008	Blue Circle Seed Treatment Biological Nematicide	Burkholderia (Pseudomonas) cepacia type Wisconsin isolate/strain M54

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
063950–00009	Blue Circle Liquid Biological Nematicide	Burkholderia (Pseudomonas) cepacia type Wisconsin isolate/strain M54

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day withdrawal period or the 30–day comment period.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number:

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company no.	Company Name and Address
000228	Riverdale Chemical Co, 1333 Burr Ridge Parkway, Suite 125A, Burr Ridge, IL 60527.
000264	Aventis Cropscience USA LP, 2 T.W. Alexander Drive, Box 12014, Research Triangle Park, NC 27709.
000432	Aventis Environmental Science USA LP, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
000432	Agrevo Environmental Health, 95 Chestnut Ridge Rd. Montvale, NJ 07645
000655	Prentiss Inc., C.B. 2000, Floral Park, NY 11001
000769	Value Gardens Supply, LLC, Box 585, St. Joseph, MO 64502
001381	Agriliance, LLC, Box 64089, St. Paul, MN 55164
002935	Wilbur Ellis Co., 191 W Shaw Ave, ı107, Fresno, CA 93704
005073	Tatge Chem Co., Box 190, Herington, KS 67449
005887	Value Gardens Supply, LLC, Box 585, St. Joseph, MO 64502
007173	Liphatech, Inc., 3600 W. Elm Street, Milwaukee, WI 53209
007501	Gustafson LLC, Box 660065, Dallas, TX 75266
007969	BASF Corp., Agricultural Products, Box 13528, Research Triangle Park, NC 27709
010182	Zeneca Ag Products, Inc., Box 15458, Wilmington, DE 19850
010182	Zeneca Ag Products, Inc., Box 18300, Greensboro, NC 27419
010807	AMREP, Inc., 990 Industrial Dr, Marietta, GA 30062
034704	Jane Cogswell, Agent For: Platte Chemical Co Inc., Box 667, Greeley, CO 80632
045385	CTX-Cenol, Inc., Box 472, Twinsburg, OH 44087
049585	Alljack, Division of United Industries Corp., Box 142642, St Louis, MO 63114
051036	Micro-Flo Co. LLC, Box 772099, Memphis, TN 38117
062719	Dow Agrosciences LLC, 9330 Zionsville Rd 308/2e225, Indianapolis, IN 46268
063950	Stine Microbial Products, Attn: Jerald L. Reichling, 2225 Laredo Trail, Adel, IA 50003

III. Loss of Active Ingredients

Unless the request for cancellation is withdrawn, the pesticide active ingredients listed in table 3 below will no longer appear in any registered products. Those who are concerned about the potential loss of these active ingredients for pesticidal use are encouraged to work directly with the registrant to explore the possibility of the registrant withdrawing the request for cancellation. The active ingredients are listed in the following Table 3, with the EPA company number and chemical name.

TABLE 3.—ACTIVE INGREDIENTS DISAPPEARING AS A RESULT OF REGISTRANT'S REQUEST TO CANCEL

EPA Company Number	Chemical Name
063950	Burkholderia (pseudomonas) cepacia type Wisconsin isolate/strain J82
063950	Burkholderia (pseudomonas) cepacia type Wisconsin isolate/strain M54

IV. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

V. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before February 24, 2003. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

VI. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation order. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 15, 2002.

Arnold E. Layne,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 02–21754 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0213; FRL–7196–3]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket ID number OPP–2002–0213, must be received on or before September 27, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0213 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Leonard Cole, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5412 and e-mail address: cole.leonard]@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to

the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0213. 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.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0213 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), OPP, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0213. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these application does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients not Included in any Previously Registered Products

1. *File Symbol*: 72098–T. *Applicant*: Taensa, Inc,. Fairfield, CT 06430. *Product name*: TAE–001 Technical Bioinsecticide. *Product type*: Biological Insecticide. *Active ingredient*: *Metarhizium anisopliae* Strain F52 at 97.6%. *Proposed classification/Use*: None. For control of coleopterans on ornamentals in greenhouses.

2. *File Symbol*: 72098–I. *Applicant*: Taensa, Inc. *Product name*: TAE–001 Granular Bioinsecticide. *Product type*: Biological Insecticide. *Active ingredient*: *Metarhizium anisopliae* Strain F52 at 2%. *Proposed classification/Use*: None. For control of coleopterans on ornamentals in greenhouses.

3. *File Symbol*: 72098–RR. *Applicant*: Taensa, Inc. *Product name*: Taenure Bioinsecticide. *Product type*: Biological Insecticide. *Active ingredient*: *Metarhizium anisopliae* Strain F52 at 2%. *Proposed classification/Use*: None. For control of coleopterans on ornamentals in greenhouses.

4. *File Symbol*: 72098–RE. *Applicant*: Taensa, Inc. *Product name*: Tick EX-G. *Product type*: Biological Insecticide. *Active ingredient*: *Metarhizium anisopliae* Strain F52 at 2%. *Proposed classification/Use*: None. For the control of ticks.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: August 19, 2002.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 02–21676 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0222; FRL–7196–1]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of

receipt of request for amendments by registrants to delete uses in certain pesticide registrations. Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request on the **Federal Register**.

DATES: The deletions are effective on February 24, 2003, or on September 27, 2002 for products with registrations number 000400–00490, 0042056–00014, and 005418–00152, unless the Agency receives a withdrawal request on or before February 24, 2003, or on or before September 27, 2002 for products with registrations number 000400–00490, 0042056–00014, and 005418–00152.

ADDRESSES: Withdrawal requests may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0222 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5761; e-mail address: hollins.james@epa.gov.

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant on or before dates indicated above.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, 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** listing at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0222. 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 this official record, which includes printed, paper versions of any electronic comments submitted during as applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Room 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.

C. How and to Whom Do I Submit Withdrawal Requests?

You may submit withdrawal requests through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0222 in the subject line on the first page of your response.

1. *By mail*. Submit your withdrawal request to: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your withdrawal request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall# 2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your withdrawal request electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All withdrawal requests in electronic form must be identified by docket ID number OPP–2002–0222. Electronic withdrawal requests may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the withdrawal request that includes any information claimed as CBI, a copy of the withdrawal request that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in certain pesticide registrations. These registrations are listed in Table 1 by registration number, product name/active ingredient, and specific uses deleted:

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Registration no.	Product name	Active ingredient	Delete From Label
000070–00223	AllPro Exotherm Termil	Chlorothalonil	Greenhouse tomatoes
000400–00490	Lindane 40%	Lindane	Cabbage, cauliflower, broccoli, brussels sprouts and radishes
001812–00328	Trilin 10G	Trifluralin	Eggplant, onion uses
005481–00153	ALCO Equine Spray	Dipropyl isocinchomeronate; piperonyl butoxide; pyrethrins; N-Octyl bicycloheptene dicarboximide	Animals intended for human consumption
042056–00014	TCI Captan-Lindane Seed Treatment	Lindane; Captan	Spinach, cabbage, cauliflower, broccoli, brussel sprouts, and radishes
062719–00080	Lontrel T Technical	Clopyralid	Residential turf

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before dates indicated in DATES section of this notice to discuss withdrawal of the application for amendment. This 180–day period, or 30–day where indicated, will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company no.	Company Name and Address
000070	Value Gardens Supply, LLC, Box 585, St. Joseph, MO 64502
000400	Crompton Mfg. Co., Inc., 74 Amity Rd, Bethany, CT 06524
001812	Griffin L.L.C., Box 1847, Valdosta, GA 31603
005481	AMVAC Chemical Corp., Attn: Jon C. Wood, 4695 Macarthur Ct., Suite 1250, Newport Beach, CA 92660
042056	Trace Chemicals LLC, 2320 Lakecrest Drive, Pekin, IL 61554
062719	Dow Agrosciences LLC, 9330 Zionsville Rd 308/2E225, Indianapolis, IN 46268

III. What is the Agency Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit such withdrawal in writing to James A. Hollins, at the address under **FOR FURTHER INFORMATION CONTACT**, postmarked on or before February 24, 2003, or on or before September 27, 2002 for products with registrations number 000400–00490, 0042056–00014, and 005418–00152.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions. There is a 12–month existing stocks provision for Dow AgroSciences, EPA Registration Number 062719–00080, after approval of revised label.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 16, 2002.

Arnold E. Layne,

Acting Director, Information Resources and Services Division.

[FR Doc. 02–21677 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0185 FRL–7194–6]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2002–0185, must be received on or before September 27, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative

that you identify docket ID number OPP–2002–0185 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Bipin Gandhi, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8380; e-mail address: gandhi.bipin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0185. 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 Highway, 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.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0185 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0185. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that

this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 16, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by Lyondell Chemical Company and represents the view of Lyondell Chemical Company. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Lyondell Chemical Company

PP 2E6484

EPA has received a pesticide petition (2E6484) from Lyondell Chemical Company, 1221 McKinney Street, Suite 1600, Houston, TX 77253–2583 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for 2-methyl-1, 3-propanediol in or on all raw agricultural commodities. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The nature of the residues of 2-methyl-1,3-propanediol in plants has not been studied. However, biodegradability studies suggest that the primary residue is the parent, as 2-methyl-1, 3-propanediol is slowly degraded by microorganisms. However, once metabolism by microorganisms is initiated, complete degradation to carbon dioxide and water results.

2. *Analytical method.* An exemption from tolerance is requested for 2-methyl-1,3-propanediol. Therefore, an analytical method for measurement of residues is unnecessary.

3. *Magnitude of residues.* Calculated maximum residues, based on the maximum concentration of pesticides in food crops, are approximately 19 milligrams/kilogram (mg/kg) commodity.

B. Toxicological Profile

1. *Acute toxicity*—i. *Acute oral toxicity in rats.* Five healthy male and five healthy female albino rats were dosed orally with 2-methyl-1, 3-propanediol at 5.0 g/kg of body weight. The rats were observed at 1–, 2– and 4–hours post dose and twice daily for 14 days for mortality and toxicity. Body weights were recorded pretest, weekly and at termination. All animals were examined for gross pathology. All animals survived the 5.0 g/kg oral dose in generally good health. Physical signs of diarrhea, chromorhinorrhea and soiling of the anogenital area were noted during the observation period. Body weight increases were normal. Necropsy results were normal in 8–10 animals. Soiling of the anogenital area and pink fluid in the urinary bladder were noted in two animals. The LD_{50} is greater than 5.0 g/kg of body weight.

ii. *Acute dermal toxicity in rabbits.* Five healthy male and five healthy nulliparous and non-pregnant female New Zealand albino rabbits were dosed dermally with 2-methyl-1, 3-propanediol at 2.0 g/kg of body weight. The test article was kept in contact with the intact skin for 24 hours. The rabbits were observed 1, 2 and 4 hours post dose and twice daily for 14 days for mortality and toxicity. Body weights were recorded pretest, weekly and at termination. Skin reactions were scored on days 1, 7 and 14. All rabbits were examined for gross pathology. Abnormal tissues were preserved in 10% buffered formalin for possible future microscopic examination. Nine of ten animals survived the 2.0 g/kg dermal application. One female died on day 12 with no abnormal predeath physical signs. Necropsy of the dead animal revealed abnormalities of the lungs, pleural cavity, liver and gastrointestinal tract, as well as soiling of the anogenital area and red staining around the mouth. Physical signs noted in survivors included diarrhea, yellow nasal discharge, few feces, bloated abdomen and soiling of the anogenital area. Body weight changes were normal in 7 of 9 survivors. Two animals lost weight during the study. Dermal reactions, absent to slight on day 1, were absent on days 7 and 14. Necropsy results of survivors were normal in 4 of 9 animals. Abnormalities of the kidneys and gastrointestinal tract, as well as soiling of the anogenital area were noted in the remaining animals. In addition, one animal exhibited a tissue mass and hemorrhagic areas on the dorsal abdominal cavity. The LD_{50} is greater than 2.0 g/kg of body weight. The one death did not appear to be related to the effect of the test article, as the animal appeared normal for 11 days.

iii. *Primary dermal irritation in rabbits.* Six healthy New Zealand Albino rabbits were dosed dermally with 2-methyl-1, 3-propanediol. 0.5 milliliter (mL) of the test article was applied to two intact and two abraded sites/rabbit for a total dose of 2.0 mL/rabbit. The test article was kept in contact with the skin for 4 hours at which time the wrappings were removed and dermal reactions were scored at 4, 24, 48 and 72 hours after test article application. The skin was also evaluated for ulceration and necrosis or any evidence of tissue destruction at these time periods. There was no erythema or edema noted during the observation period.

iv. *Eye irritation in rabbits.* Nine healthy New Zealand albino rabbits, free from evidence of ocular irritation or corneal damage, as determined by pretest fluorescein dye procedures, were dosed with 2-methyl-1, 3-propanediol. 0.1 mL of the test article was placed into the conjunctival sac of one eye of each rabbit. Six eyes remained unwashed. Three eyes were washed 20–30 seconds after dosing for 1 minute with lukewarm water. The eyes were examined and scored by the Draize technique on days 1, 2 and 3. The primary eye irritation score for each rabbit, each day, was calculated. The daily average and range were also calculated. UNWASHED: All six eyes appeared normal during the study. WASHED: There was no corneal opacity or iritis. Slight conjunctival irritation, noted in 1 of 3 eyes, cleared by day 2. Two eyes appeared normal during the study.

v. *Acute 4–hour inhalation toxicity in rats.* The acute inhalation toxicity of 2-methyl-1, 3-propanediol was studied by nose-only exposure of one group of five male and five female rats to a test atmosphere containing the limit concentration of 5.1 and 0.2 g/2-methyl-1, 3-propanediol per m^3 for a 4–hour period. The mass median aerodynamic diameter (MMAD) of the particles in the

aerosol was 2.4 frequent modulation (Fm) with a mean geometric standard deviation of 1.4. After exposure, the rats were kept for a 14–day observation period. Except for a slightly decreased breathing rate in the fourth hour of exposure in one female animal, no exposure-related abnormalities were seen during or shortly after exposure or during the 14–day observation period and no mortality occurred. For rats of this strain and age, mean body weight gain was considered to be within the normal range. Findings at necropsy were limited to the lungs. Thickened hyalin spots or small areas were seen on all lobes of the lungs in all female and in three male animals. In a fourth male animal small white areas were seen on all lobes of the lungs. It was concluded that the 4–hour LC_{50} value of 2-methyl-1, 3-propanediol is higher than 5.1 g/m^3 for both sexes.

vi. *Dermal sensitization guinea pig maximization test.* 2-Methyl-1, 3-propanediol was evaluated for delayed contact hypersensitivity (skin sensitization) in guinea pigs that received intradermal and epidermal exposures. The study was carried out in accordance with the Organization for Economic Cooperation and Development (OECD) Guideline No. 406, ''Skin Sensitization'', EEC Directive 84/449/EEC, Part B.6, ''Skin Sensitization'' and in accordance with the method described by Magnusson and Kligman, ''Allergic Contact Dermatitis in the guinea pig - Identification of Contact Allergens''. In order to identify the slightly irritating and the non-irritating test substance concentrations, a preliminary study was carried out. In the main study, the experimental animals were intradermally injected with a 10% concentration and epidermally exposed to the undiluted test substance, while the control animals were similarly treated, but with the vehicle only and with a dry patch. Immediately after the epidermal exposure, the skin irritation was scored. Two weeks after the epidermal application all animals were challenged with test substance concentrations of 100%, 50% and 25%, and the vehicle distilled water. The challenge reactions were assessed 24–48 hours after bandage removal. The epidermal exposure of 2-methyl-1, 3-propanediol in the induction phase resulted in no skin irritation. The epidermal exposure of 2-methyl-1, 3-propanediol in the challenge phase resulted in three positive sensitization reactions in response to the 50% test substance concentration. Under the conditions used in this study, 2-methyl-1, 3-propanediol resulted in a sensitization rate of 15%. Applying the rating of allergenicity described by Kligman A.M. (1966) on the results obtained in this test, 2-methyl-1, 3-propanediol is considered to have mild sensitizing properties.

2. *Genotoxicty*—i. *Mutagenic Activity of 2-methyl-1,3-propanediol in an in vitro mammalian cell gene mutation test with V79 (Chinese hamster cells).* 2-Methyl-1,3-propanediol was tested in an *in vitro* mammalian cell gene mutation test with V79 chinese hamster cells in the presence and absence of a metabolic activation system (S9-mix). 2-Methyl-1,3-propanediol was tested up to and including a concentration of 5,000 milligram/milliliter (mg/mL) in the absence and presence of S9-mix. 2-Methyl-1, 3-propanediol did not induce a significant, dose-related increase in the mutant frequency at the hypoxanthine phophoribosyl transferase (HPRT-locus), either with or without metabolic activation, in two independently repeated experiments. Under the same conditions the positive control chemicals ethylmethanesulphonate (6 mm) and dimethylnitrosamine (8mm) produced 14–23–fold and 8–10 fold increases respectively in the mutant frequency, demonstrating the sensitivity of the assay and the metabolizing activity of the S9-mix. It was concluded that 2-methyl-1,3-propanediol is not mutagenic in the V79/HPRT gene mutation test system under the experimental conditions described in this report.

ii. *Chromosomal aberrations in cultured peripheral human lymphocytes.* 2-Methyl-1,3-propanediol was examined for the induction of chromosome aberrations in cultured peripheral human lymphocytes in the presence and absence of a metabolic activation system (Aroclor-1,254 induced rat liver S9-mix). 2-Methyl-1,3-propanediol was tested up to and including 500 mg/mL in the absence and presence of S9-mix for a 24 hour and a 48 hour fixation period in the first experiment, and for a 24 hour fixation period in the second experiment. None of the tested concentrations induced a statistically and biologically significant increase in the number of cells with chromosome aberrations, either in the absence or in the presence of S9-mix. Positive control chemicals, mitomycin concentration (C) and cyclophosphamide, both produced a statistically significant increase in the incidence of cells with chromosome aberrations, indicating that the test conditions were optimal and that the metabolic activation system (S9-mix) functioned properly. It is concluded that 2-methyl-1, 3-propanediol is not clastogenic in human lymphocytes under the experimental conditions described in this report.

iii. *Ames Salmonella/Microsome Test.* 2-Methyl-1, 3-propanediol was tested in the Ames *Salmonella*/microsome plate test up to and including a concentration of 5,000 mg/plate in the absence and presence of S9-mix. The test substance did not induce a dose-related increase in the number of reverent (His+) colonies in each of the four tester strains (TA1535; TA1537; TA98 and TA100). These results were confirmed in an independently repeated experiment. The test substance was not considered mutagenic in this test system.

3. *Reproductive and developmental toxicity*—i. *Embryotoxicity and Teratogenicity Study.* Timed pregnant female wistar rats were administered 2-methyl-1, 3-propanediol at dosage levels of 300, 600 or 1,000 mg/kg body weight by oral gavage daily on gestation days 0 to 20. Control group females received daily oral administration of water (Milli-U). Female body weights were determined daily and food consumption of females was determined at periodic intervals during pregnancy. On day 21 of gestation, all females were euthanized and subjected to examination post-mortem and external, thoracic and abdominal macroscopic findings were recorded. The ovaries, and uterine horns were dissected and examined for the number of *corpora lutea*, the weight of the gravid uterus, the number and distribution of live fetuses and embryo-fetal deaths, the weight and sex of each live fetus and externally visible foetal macroscopic abnormalities. Alternate live fetuses of each litter were preserved in 96% ethanol or Bouin's fluid, and subjected to skeletal or visceral examinations respectively.

Oral dosing of pregnant female wistar rats with 2-methyl-1, 3-propanediol, at dose levels of 300, 600 or 1,000 mg/kg body weight/day during days 0 to 20 of gestation inclusive, revealed no maternal toxicity.

Treatment at 600 and 1,000 mg/kg body weight/day was associated with a slight increase in embryonic resorptions and a corresponding slight decrease in live litter size, compared with the concurrent controls. However, as all values remained within the laboratory background control ranges, the findings were considered to be of doubtful toxicological significance.

There was no indication of an adverse effect of 2-methyl-1, 3-propanediol on morphological development or skeletal ossification *in utero*.

In this embryotoxicity and teratogenicity study, the no observed effect Level (NOEL) was 300 mg/kg body weight/day.

At the request of Lyondell Chemical Company, an independent review of the embryotoxicity and teratogenicity study was conducted by a reproductive and developmental toxicity expert, L. Irvine (TAS-Environ). The purpose of the review was to clarify the slight changes on embryonic resorptions and litter size that were observed in the original study. The reviewer examined the detailed animal data from the first study and control animal developmental/reproductive performance incidence data from another laboratory with recent experience with the same rat strain and supplier and historical data obtained from the animal supplier. The latter information was included in the review due to the laboratory's limited control data on this rat strain that was available for interpretation of the 2-methyl-1, 3-propanediol study.

The reviewer found the following: (1) In comparison with the available data, it was obvious that the incidence of embryonic deaths in the control group of the 2-methyl-1, 3-propanediol study was unusually low and that the values in the treated groups were more typical for the strain; (2) statistically significant inter-group differences in embryonic resorptions would not have been expected in comparison with a more representative control group; and (3) since there were no other indications of potential embryotoxicity and since there was clearly no dose-related difference in mean live litter size, one could strengthen the study conclusion to state the findings are highly unlikely to be of toxicological significance.

The findings of the TAS-Environ review support and strengthen the original conclusions that discount the toxicological significance of changes in embryonic resorptions and litter size observed for 2-methyl-1, 3-propanediol in the embryotoxicity and teratogenicity study.

ii. *Prenatal developmental toxicity in rats.* The potential maternal toxicity and prenatal developmental toxicity of the test article, 2-methyl-1, 3-propanediol were evaluated. The test article in the vehicle, deionized water, was administered to three groups of 25 bred Crl:CD (SD)IGS BR rats once daily from gestation days 0 through 19. Dosage levels were 100, 300 and 1,000 mg/kg/day administered at a dose volume of 5 mL/kg. A concurrent control group composed of 25 bred females received the vehicle, deionized water, on a comparable regimen at 5 mL/kg. The route of administration was oral by gastric intubation. Clinical observations, body weights and food consumption were recorded. On gestation day 20, a laparohysterectomy was performed on all animals. The uteri and ovaries were examined and the numbers of fetuses, early and late resorptions, total implantations and *corpora lutea* were recorded. Mean gravid uterine weights and net body weight changes were calculated for each group. The fetuses were weighed, sexed and examined for external, soft tissue and skeletal malformations and variations.

All maternal animals survived to the scheduled necropsy on gestation day 20. No treatment-related clinical findings were observed at any dose level. Body weights, body weight gains, gravid uterine weights, net body weights, net body weight gains and food consumption were unaffected by treatment at any dose level. No test article-related internal findings were observed in the dams at any dose level.

Intrauterine growth and survival were unaffected by test article administration at any dose level. The fetal malformations and developmental variations observed in the treated groups were considered to be spontaneous in origin.

Based on the results of this study, the no observed adverse effect level (NOAEL) for maternal toxicity and prenatal developmental toxicity is 1,000 mg/kg/day, the highest dose level tested.

iii. *Two-generation reproductive toxicity study in rats.* This study was conducted to evaluate the potential adverse effects of 2-methyl-1, 3-propanediol administration on the reproductive capabilities of the F_0 and F_1 generations and on F_1 and F_2 neonatal survival, growth, and development. The test article was administered orally by gavage once daily for at least 70 consecutive days prior to mating to three groups of F_0 and F_1 parental Crl:CD (SD)IGS BR rats (30/sex/group). A control group of identical design received deionized water on a comparable regimen. Test article administration continued throughout mating, gestation and lactation, until euthanasia for F_0 and F_1 parental animals. All parental animals were observed twice daily for appearance and behavior. Clinical observations, body weights, and food consumption were recorded at appropriate intervals prior to mating and during gestation and lactation. All F_0 and F_1 females were allowed to deliver and rear their pups until weaning on lactation day 21. On lactation day 21, 35 pups/sex/group from the pairing of the F_0 animals, including five potential replacement animals/sex/group were selected for use in the F_1 generation. These animals were dosed from postnatal day (PND) 22–27, inclusively. On PND 28, 30 offspring/sex/group were selected to constitute the F_1 generation. The remaining 5 offspring/sex/group were submitted for necropsy. Developmental landmarks anogenital distance, balanopreputial separation and vaginal patency were evaluated for the selected F_1 rats. Unselected F_0 and F_1 pups were necropsied on postnatal day (PND) 21–28; selected organs were weighed on PND 21. All surviving F_0 and F_1 parental animals received a complete detailed gross necropsy following the completion of weaning of the F_0 and F_1 pups, respectively; selected organs were weighed. Spermatogenic endpoints (sperm motility, morphology and numbers) were recorded for all F_0 and F_1 males, and ovarian primordial follicle and *corpora lutea* counts and the presence or absence of growing and antral follicles were recorded for 10 F_0 and 10 F_1 females in each of the control and high-dose groups. Designated tissues from 10 F_0 and F_1 parental animals/sex/group in the control and 1,000 mg/kg/day groups and from all parental animals that were found dead or euthanized in extremis were examined microscopically. In addition, any tissues that appeared abnormal were also examined microscopically.

No test article-related mortalities or clinical findings were observed in the F_0 or F_1 generation. One F_0 male in the 300 mg/kg/day group was euthanized in extremis during week 2 due to shallow, slow respiration and excreta-related findings on the day prior to and on the day of euthanasia. At necropsy, this animal had a dilated left renal pelvis (hydronephrosis) and white content and white areas on the right renal pelvis. The pathology for this animal was determined microscopically to be pyelonephritis. All other F_0 animals survived to the scheduled necropsy. In the F1 generation, one control group female was found dead during study week 27 (prior to pairing) due to accidental mechanical trauma to the neck. All F_1 animals that were paired survived to the scheduled necropsy.

Reproductive parameters were not adversely affected by test article administration at dose levels of 100, 300 and 1,000 mg/kg/day during the F_0 or F_10 generations. No adverse test article-related effects on weekly, gestation or lactation body weight, body weight gain, food consumption or food efficiency were observed in the F_0 or F_1 generations.

No test article-related macroscopic or microscopic internal findings were observed in the F_0 or F_1 generation

males or females. Absolute and relative (to final body weight) organ weights were unaffected by test article administration for males and females in the F_0 or F_1 generations.

Mean F_0 or F_1 pup body weights, sex ratios, live litter sizes, numbers of dead pups on lactation day 0 and viability indices were unaffected by test article administration. No test article-related effects on physical development or behavioral responses were observed for the F1 pups.

No test article-related internal findings were noted in the F_0 or F_1 pups that died or were euthanized, or at the scheduled necropsies. Necropsy findings for the selected weanling pups did not suggest any effects of test article administration. No test article-related effects on estrous cycle or gestation length, parturtion, ovarian primordial, follicle and corpora lutea counts, the presence of growing and antral follicles, implantation site counts or spermatogenic endpoints sperm motility, morphology and numbers were observed in either the F_0 or F_1 generation.

In conclusion, no parental, neonatal or reproductive toxicity was observed as a result of test article administration at dose levels of 100, 300 and 1,000 mg/kg/day. Based on the results of this study, the no-observed-adverse-effect level (NOAEL) for parental, neonatal and reproductive toxicity is 1,000 mg/kg/day.

4. *Subchronic toxicity*—i. *Sub-acute 14–day oral toxicity in the rat.* In this subacute 14–day toxicity study, 2-methyl-1, 3-propanediol was administered daily by gavage to SPF-bred wistar rats at 300, 600 or 1,000 mg/kg/day, in order to provide a basis for selection of dose levels for a 90–day study. All animals were subjected to daily clinical observation. Body weight was measured on day 1, after 1 week and on the day before necropsy and food consumption weekly. During week 2 of treatment, both eyes of all animals were examined. On the day of termination blood was collected from each animal for clinical laboratory investigations. Subsequently, macroscopic observations and organ weights were recorded. A histopathological examination was performed on adrenals, heart, kidneys, liver, spleen, stomach and testes. There were no treatment-related changes for any of the treatment groups for the parameters evaluated. From the results presented in this report, a definitive no observed effect level (NOEL) of 1,000 mg/kg/day was established.

ii. *90–day oral toxicity in the rat.* In this sub-chronic 90–day oral toxicity study, 2-methyl-1, 3-propanediol was administered daily by gavage to SPF-bred Wistar rats. The study consisted of 4 groups, each comprising 10 males and 10 females, and dosed at 0, 300, 600 or 1,000 mg/kg/day. Dose levels were selected based on the results of a 14–day range finding study. (RCC NOTOX 09171).

All animals were subjected to daily clinical observation. Body weight and food consumption were measured weekly and, for body weights, also on the day of necropsy. Ophthalmoscopic examinations were performed prior to commencement of treatment on all animals and at week 13 on all animals of the control and high dose groups. During the last week of treatment (week 13) blood was collected from each animal for clinical laboratory investigations. At the end of week, all animals were necropsied and macroscopic observations and organ weights recorded. Samples of all tissues were taken and fixed. A selection of organs from animals of the control and high dose groups were histologically processed and subsequently subjected to pathological examination.

There were no treatment-related changes for any of the treated groups for the parameters evaluated. From the results presented in this report, a definitive no observed effect level (NOEL) of 1,000 mg/kg/day was established.

5. *Chronic toxicity.* Neither oncogenicity nor 2–year feeding studies in animals have been completed using 2-methyl-1, 3-propanediol as the test material.

6. *Endocrine disruption.* Nothing in the available literature suggests that 2-methyl-1, 3-propanediol is an endocrine disruptor or that it possesses intrinsic hormonal activity.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food.* The inert, 2-methyl-1, 3-propanediol, will be added to water-soluble pesticide formulations as a solvent and/or surfactant. These pesticide formulations will be applied to raw agricultural commodities as insecticides, herbicides or fungicides. The maximum amount of 2-methyl-1,3-propanediol in any particular formulation is expected to represent no more than 4% of the formulation or a maximum of 8 pounds of 2-methyl-1, 3-propanediol per acre of crop.

The amount of 2-methyl-1,3-propanediol expected to be present in crops grown for human consumption is estimated based on the maximum potential residues of 2-methyl-1,3-propanediol on ready-to-eat raw agricultural commodities (i.e., scraped, peeled, washed, etc.) taken from the USDA Pesticide Data Program (1999).

Potential residues of 2-methyl-1,3-propanediol were estimated from USDA pesticide residue studies from ready-to-eat fruits and vegetables. It has been projected that 2-methyl-1,3-propanediol will represent no more than 4% of any given pesticide formulation. However, as there are currently no data to describe the affinity that 2-methyl-1, 3-propanediol may have for particular crops or for specific areas of a crop (i.e., skin, root, leaf), Lyondell Chemical Company assumed that 100% of 2-methyl-1, 3-propanediol applied remains on the treated crop, a very conservative assumption. The highest pesticide residue, 19.0 mg/kg food, was measured for fresh strawberries. Assuming that 3.0 kg food (solids and liquids) are consumed per day and that the maximum residue calculated for fruits and vegetables is present in the entire diet 19 mg/kg food, the estimated daily intake (EDI) for an adult weighing 71.8 kg is 0.8 mg 2-methyl-1, 3-propanediol/kg/day and the EDI for a child weighing 22.0 kg is estimated to be 2.58 mg 2-methyl-1, 3-propanediol/kg/day.

a. *Acute exposure.* Acute oral toxicity studies on 2-methyl-1,3-propanediol conclude that adverse effects in rats and mice were seen throughout the 14 day observation period. Though a LOAEL was not established in either study, Lyondell Chemical Company determined a LOAEL of 5,000 mg/kg is reasonable based on the observations of initial adverse effects. Observable effects included diarrhea, chromorhinorrhea and soiling of the anogenital area. These effects were observable during the 14 days after dosing, and though no animals died, they can be considered observable adverse effects. The calculated acute reference dose (RfD) is 16.0 mg/kg/day based on the estimated acute toxicity LOAEL (5,000 mg/kg/day) and the appropriate uncertainty factors accounting for potential intraspecies variation, for potential interspecies variation, and the use of an estimated LOAEL in place of a NOAEL (10 x 10 x 3 or 300–fold uncertainty factor).

b. *Chronic Exposure.* The calculated chronic RfD is based on a two-generation reproductive toxicity study, in which the paternal, neonatal and reproductive NOAEL was determined to be 1,000 mg/kg/day. Using the appropriate uncertainty factors accounting for the potential intraspecies variation, for potential interspecies variation, and a worst case modifying factor (10 x 10 or 100–fold uncertainty

factor), the chronic RfD is estimated to be 10.0 mg/kg/day.

ii. *Drinking water.* The theoretical residues calculated for dietary intake included intake from drinking water (one-half of the 3 kg food consumed per day is assumed to be liquids.) Since 2-methyl-1, 3-propanediol is a surfactant, and is water soluble, it is expected that some exposure in drinking water will occur. However, it is unlikely that drinking water exposures exceeding those calculated above, assuming direct application of pesticides containing this inert would occur due to runoff or leaching into groundwater. Biodegradability studies indicate that 2-methyl-1, 3-propanediol is inherently biodegradable (modified Sturm test; 54% of the material degraded in the observed time.)

2. *Non-dietary exposure.* 2-Methyl-1, 3-propanediol is currently used as a neutralizer, emollient, emulsifier, and humectant in numerous personal care products. The chemical is also used in the synthesis of polyester polyols for solvent and waterborne urethane and high solid and powder polyester coatings. The chemical also holds several FDA approvals and clearances for use in food contact applications, including its use in adhesives, resinous and polymeric coatings, paper and paperboard in contact with aqueous, fatty, and dry foods, slimicides, and polyurethanes in contact with bulk dry food.

D. Cumulative Effects

There is insufficient information to determine whether other compounds have a common mechanism of toxicity to 2-methyl-1, 3-propanediol.

E. Safety Determination

1. *U.S. population.* Using the above estimated RfDs, the adult estimated daily intake (EDI) represents 5 percent of the acute RfD and 8 percent of the chronic RfD. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. It should be noted that the exposures estimates are conservative and exaggerated.

2. *Infants and children.* The EDI for a child represents 16 percent of the acute RfD and 26 percent of the chronic RfD. Based on these data, it may be concluded that there is a reasonable certainty that no harm will result from aggregate exposure to 2-methyl-1, 3-propanediol residues to the U.S. population, including both adults and children.

F. International Tolerances

There are no international tolerances listed for 2-methyl-1, 3-propanediol.

[FR Doc. 02–21585 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7269–3]

Underground Injection Control (UIC) Program; Hydraulic Fracturing of Coalbed Methane (CBM) Wells Report—Notice

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of draft report and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) has completed a draft report titled, ''Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs'' EPA 816–D–02–006. The draft report contains the preliminary results of Phase I of an investigation undertaken by EPA to evaluate the impacts to underground sources of drinking water (USDW) by hydraulic fracturing of coalbed methane wells (herein known as hydraulic fracturing). Based on the information collected, EPA has preliminarily found that the potential threats to public health posed by hydraulic fracturing of CBM wells appear to be small and do not appear to justify additional study. The purpose of this notice is to inform the public of the availability of the draft report for review and to seek public comment on the draft report.

DATES: EPA must receive public comment, in writing, on the draft report by October 28, 2002.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in section I of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: L. Cronkhite, Ground Water Protection Division, Environmental Protection Agency, Mail Code 4606M, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, PH: (202) 564–3878. E-mail: *cronkhite.leslie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of the Draft Report, ''Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs'' and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. W–01–09–II. The official public docket consists of the *Draft Report, Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs,* documents referenced in this action, any public comments received, and other information related to this action. The official public docket is the collection of materials that is available for public viewing beginning August 27, 2002 at EPA's Water Docket at 1301 Constitution Ave., NW., Room B135, Washington, DC 20004. The OW Docket is closed from August 12 through August 26, 2002, for relocation. This Docket Facility is open from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (202) 566–2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access draft report, ''Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs,'' access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket

materials through the docket facility identified in section I.A.1.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

B. How and To Whom Do I Submit Comments?

EPA has established an official public docket for this action under Docket ID No. W–01–09–II. The official public docket is the collection of project-specific materials. You may submit comments electronically, by mail, or through hand delivery/courier. The Agency would prefer that commenters cite, where possible, the paragraph(s) or sections in the report or documents to which each comment refers. Commenters should use a separate paragraph for each issue discussed. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. Electronically

If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic copies must be submitted as an ASCII, WP5.1, WP6.1 or WP8 file avoiding the use of special characters and form of encryption. Electronic comments must be identified by the docket number W–01–09–II. Comments will also be accepted on disks in WP 5.1 or higher, or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

a. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in Docket ID No. W–01–09–II. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

b. *E-mail.* Comments may be sent by electronic mail (e-mail) to OW-Docket@epa.gov, Attention Docket ID No. W–01–09–II. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

c. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section I.A.1. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail

Send your comments to: EPA's Water Docket, Environmental Protection Agency, Mail Code 4101, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. W–01–09–II.

3. By Hand Delivery or Courier

OW's Docket is closed for relocation from August 12 through August 26, 2002. It will re-open August 27, 2002. Deliver your comments to: Water Docket, Environmental Protection Agency, Room B135, 1301 Constitution Ave., NW., Washington, DC 20460, Attention Docket ID No. W–01–09–II, anytime after August 26, 2002. For access to docket materials, please call (202) 566–2426 to schedule an appointment. Such deliveries are only accepted during the Docket's normal hours of operation from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

C. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation to your comments.

II. Hydraulic Fracturing Study Information

Hydraulic fracturing is a technique used to improve the flow of oil and gas to production wells. In high-permeability formations, oil and gas flows into the wellbore in response to pumping. In low-permeability formations, however, oil and gas flow rates may be low. Hydraulic fracturing can create a permeable pathway deep

into the formation, that allows hydrocarbons to move toward the well at a faster rate. Hydraulic fracturing is widely used in the oil and gas industry, and is an important tool for exploiting alternative hydrocarbon resources, such as coalbed methane, that might be unavailable through conventional drilling practices.

In order to hydraulically fracture the rock formation, water mixtures are injected into the well at high pressure for a few hours, creating a linear fracture in the formation rocks. ''Proppants'' such as sand or plastic beads are emplaced into the fracture to hold it open and to create a permeable pathway into the well. After the fracturing process concludes, the well is pumped for production. In most cases the resulting fracture is a flat, planar feature oriented vertically along the wellbore, extending from 70 to 500 feet from the well bore.

Prior to 1997, EPA had not considered regulating hydraulic fracturing because the Agency believed that this well production stimulation process did not fall within the Underground Injection Control (UIC) program's regulatory authority under the Safe Drinking Water Act (SDWA). In 1994, the Legal Environmental Assistance Foundation (LEAF) challenged that interpretation by petitioning EPA to withdraw Alabama's EPA-approved section 1425 (SDWA) UIC program because LEAF believed the State should regulate hydraulic fracturing for CBM development as underground injection. EPA rejected LEAF's petition. LEAF challenged EPA's decision and in 1997, the Eleventh Circuit Court of Appeals held that hydraulic fracturing of coalbeds fit within the SDWA definition of underground injection, *LEAF* v. *EPA,* 118 F.3d 1467, 1478 (11th Cir. 1997). In response to this decision, Alabama modified its UIC program to regulate hydraulic fracturing of coalbeds. In December 1999, EPA approved the revisions to Alabama's Class II UIC program.

Following the Court's decision, and in response to concerns voiced by individuals who may be affected by CBM development, EPA initiated a study to assess the potential for hydraulic fracturing of CBM wells to endanger USDWs. A draft report has been completed and EPA is now accepting comments on the draft report.

The hydraulic fracturing study is narrowly focused to address hydraulic fracturing of CBM wells. It does not address all hydraulic fracturing practices, because (1) CBM wells tend to be shallower and therefore, closer to USDWs than conventional oil and gas production wells (1,000s of feet below ground surface (bgs) rather than 10,000s of feet bgs); (2) EPA has not received complaints from citizens regarding any other type of hydraulic fracturing; and (3) the Eleventh Circuit litigation concerned hydraulic fracturing in connection with CBM production. The study also does not address other potential impacts of CBM production, such as ground water removal or production water discharge.

Given the enormous variation in geology among and within coalbed basins in the U.S., any evaluation of potential impacts from hydraulic fracturing related to CBM production at a national level must necessarily be broadly focused. In order to best utilize resources in investigating this issue, EPA divided the study into three possible phases, narrowing its focus from general to more specific as findings warrant. Phase I of the study is a limited-scope assessment designed to determine if an in-depth study, including collection of new data, is needed. This draft report summarizes the study's Phase I efforts and findings. Phase I did not include a risk assessment or an evaluation of existing regulations; those steps would be conducted in Phases II and III, if EPA decides to move forward with the study.

The goal of EPA's hydraulic fracturing Phase I study is to determine if a threat to public health as a result of USDW contamination from CBM hydraulic fracturing exists, and if so, if that threat is great enough to warrant further study. The threat to public health from USDW contamination was measured by the presence or absence of documented drinking water well contamination cases caused by CBM hydraulic fracturing, or by a clear and immediate contamination threat to drinking water wells.

EPA's approach for evaluating the threat to public health was to review alleged incidents of drinking water well contamination, as well as evaluate the theoretical potential for hydraulic fracturing to impact drinking water wells. EPA reviewed over 200 peer-reviewed publications, interviewed 50 employees from industry and State or local government agencies, and communicated with approximately 40 citizens and groups who are concerned that CBM production impacted their drinking water wells. We evaluated two potential mechanisms by which hydraulic fracturing may threaten USDWs: (1) The injection of fracturing fluids directly into a USDW, and (2) the creation of a hydraulic communication through a confining layer between the target coalbed formation and adjacent USDWs located either above or below.

Based on the information collected and reviewed, EPA preliminarily believes the potential threats to public health posed by hydraulic fracturing of CBM wells appear to be small, and do not justify additional study. To EPA's knowledge, this study is the most thorough effort ever conducted to examine impacts to public health from hydraulic fracturing. If threats to USDWs from hydraulic fracturing of coalbed methane wells were significant, EPA would expect to have found confirmed instances of water well contamination from the practice. Instead, despite the fact that thousands of coalbed methane wells are fractured annually, EPA did not find persuasive evidence that any drinking water wells had been contaminated by hydraulic fracturing related to CBM production.

EPA did find that the use of diesel fuel in some CBM fracturing fluids runs the risk of introducing hazardous chemicals into USDWs. Our analysis indicates that the injection concentrations of some of these hazardous chemicals may exceed drinking water standards. However, the health risk posed by introduction of these chemicals is reduced significantly by the fact that coalbed methane production is dependent upon the removal of large quantities of ground water (and injected fracture fluids) soon after a well has been hydraulically fractured. EPA believes that this ground water production, combined with the dilution effect from natural formation ground water beyond the outer reaches of the fracture, should minimize the possibility that chemicals included in the fracturing fluids would adversely impact drinking water wells or public health.

Regarding the second potential pathway for contaminants to enter a USDW, coalbed studies to date have found no observed breach of confining (shale) layers from hydraulically-created fractures. This is consistent with the generally understood nature of fracturing behavior.

EPA invites your comment on the draft report.

Dated: August 19, 2002.

G. Tracy Mehan, III,

Assistant Administrator, Office of Water.

[FR Doc. 02–21946 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0069; FRL–7197–4]

Methodology for Lower Toxicity Pesticide Chemicals; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability; Extension of Comment Period.

SUMMARY: On June 13, 2002, EPA published a notice of availability soliciting comments on a document ''methodlogy for determining the data needed and the types of assessments necessary to make FFDCA section 408 safety determinations for lower toxicity pesticide chemicals.'' EPA is extending the comment period for 30 days, from September 11, 2002, to October 11, 2002.

DATES: Comments, identified by the docket ID number OPP–2002–0069, must be received on or before October 11, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0069 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6304; fax number: (703) 305–0599; e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances-under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)]. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get 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/. On the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To obtain an electronic copy of the methodology, go to www.epa.gov/oppfead1/cb/csb__page/updates/lowertox.pdf .

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0069. 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.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0069 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0069. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is EPA Taking?

In the **Federal Register** of June 13, 2002 (67 FR 40732) (FRL–7177–9), EPA published a notice of availability soliciting comments on a document ''methodology for determing the data needed and the types of assessments necessary to make FFDCA section 408 safety determinations for lower toxicity pesticide chemicals.'' In response to a request for an extension, EPA is extending the comment period for 30 days, from September 11, 2002 to October 11, 2002. The methodology is available on the Agency's Web site at www.epa.gov/oppfead1/cb/csb__page/updates/lowertox.pdf.

List of Subjects

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

Dated: August 22, 2002.

Deborah Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 02–21937 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0165; FRL–7190–5]

Pesticides; Guidance for Pesticide Registrants on Submitting Requests for Threshold of Regulation (TOR) Decisions and Standard Operating Procedures (SOP) for Making TOR Decisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Agency is announcing the availability of Pesticide Registration Notice 2002–2 (PR-Notice) Entitled ''Guidance for Submitting Requests for Threshold of Regulation (TOR) Decisions.'' The Office of Pesticide Programs (OPP) issues PR-Notices to inform pesticide registrants and other interested persons about important policies, procedures and registration-related decisions and to provide guidance to pesticide registrants and OPP personnel. PR-Notice 2002–2 provides guidance concerning procedures to use when a registrant or other person wants the Agency to determine whether a use of a pesticide in a manner that has the possibility of resulting in residues in food qualifies under the Agency's October 27, 1999 ''Threshold of Regulation'' policy. If EPA concludes a use is below the threshold of regulation, no tolerance or tolerance exemption would be required. The accompanying SOP explains how the Agency will process TOR requests.

FOR FURTHER INFORMATION CONTACT: Vivian Prunier, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9341; fax number: (703) 305–5884; e-mail address: Prunier.Vivian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are required to register pesticides under the Federal Fungicide, Insecticide and Rodenticide Act (FIFRA) or to persons who may be interested in ascertaining whether a tolerance or tolerance exemption is required under the Federal Food, Drug and Cosmetic Act (FFDCA) as a condition of FIFRA registration of a pesticide. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get 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/. You may view the PR Notice and the SOP described in this notice on the Office of Pesticide Programs Internet Home Page at http://www.epa.gov/opppmsd1/PR_Notices/.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0165. 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 the **Federal Register** of October 27, 1999 (64 FR 57881), the Environmental Protection Agency (EPA) announced the availability of a document entitled ''Threshold of Regulation Policy — Deciding Whether a Pesticide with a Food Use Pattern Needs a Tolerance.'' The Threshold of Regulation (TOR) policy listed criteria and procedures for considering whether a tolerance is required for the use of a pesticide. A use may qualify as a TOR use if: (a) Using a reliable and appropriately sensitive analytical method to measure residues in the commodity, no residues are detected in the commodity under the expected conditions of use; and (b) using reasonably protective criteria, the estimated potential risk of any theoretically possible residues in food is not of concern.

In the **Federal Register** of October 5, 2001 (55 FR 51040), the Agency announced the availability of, and asked for comments on, a draft PR- Notice entitled ''Guidance for Submitting Requests for Threshold of Regulation (TOR) Decisions.'' The draft PR-Notice would provide guidance on how to submit a request for a TOR decision and would explain how EPA will make TOR decisions in the course of pesticide

registration or reregistration. The October 5, 2001 notice also announced the availability of and asked for comments on a draft SOP for the Agency's use in processing TOR requests.

EPA received one comment in response to the October 5, 2001 notice. This comment discussed the TOR policy but did not address the procedures described in either the draft PR-Notice or the draft SOP for implementing the October 1999 Threshold of Regulation policy. Accordingly, it will be addressed in other ways.

III. What Guidance Does this PR-Notice Provide?

This PR-Notice provides guidance to the registrant concerning implementation of the Agency's Threshold of Regulation policy.

PR-Notice 2002–2 advises that a registrant or other person may submit a request for a TOR decision for a new pesticide use as part of FIFRA section 3 registration process or for an existing use during reregistration under FIFRA section 4 or tolerance reassessment under the FFDCA. Before registering a use under FIFRA 24(c), a State may ask EPA to decide whether the use is below the threshold of regulation. A State may request a TOR decision when requesting an emergency exemption under FIFRA section 18.

EPA expects to follow an SOP for processing TOR requests. The SOP is intended to guide EPA reviewers through the review process for TOR decision requests.

IV. Do PR-Notices Contain Binding Requirements?

The PR-Notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers and to pesticide registrants. While the requirements in the statutes and Agency regulations are binding on EPA and the applicants, this PR-Notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

List of Subjects

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

Dated: August 20, 2002.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 02–21753 Filed 8–27–02; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7268–6]

Proposed CERCLA Administrative Cost Recovery Settlement; C.F.H., Inc., Patrick G. Canonica, Carl Franson, Christopher Hickey, Lydall Filtration/Separation, Inc., Richard F. Atkinson, Beverly A. Atkinson, Saco River Industries, Inc., and Silvex, Inc., Rogers Fibre Mill Superfund Site, Bar Mills, Maine

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past and projected future response costs concerning the Rogers Fibre Mill Superfund Site in Bar Mills, Maine with the following settling parties: C.F.H., Inc., Patrick G. Canonica, Carl Franson, Christopher Hickey, Lydall Filtration/Separation, Inc., Richard F. Atkinson, Beverly A. Atkinson, Saco River Industries, Inc., and Silvex, Inc. The settlement requires the settling parties to pay $300,000.00 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02214–2023.

DATES: Comments must be submitted on or before September 27, 2002.

ADDRESSES: Comments should be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode RAA, Boston, Massachusetts 02114–2023 and should refer to: In re: Rogers Fibre Mill Superfund Site, U.S. EPA Docket No. 1–2002–0008.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement may be obtained from John Beling, U.S. Environmental Protection Agency, Region I, Office of Environmental Stewardship, One Congress Street, Suite 1100, Mailcode SES, Boston, MA 02114–2023.

Dated: June 20, 2002.

Richard Cavagnero,

Acting Director, Office of Site Remediation & Restoration.

[FR Doc. 02–21939 Filed 8–27–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 010050–011.

Title: U.S. Flag Far East Discussion Agreement.

Parties: American President Lines, Ltd., A.P. Moller-Maersk Sealand.

Synopsis: The proposed agreement modification would add authority for the parties to discuss service contracts and establish voluntary guidelines for individual service contracts.

Agreement No.: 011817.

Title: CMA CGM/Trans Pacific Lines Space Charter Agreement.

Parties: CMA CGM, S.A., Trans Pacific Lines (TPL).

Synopsis: The agreement authorizes CMA CGM to charter space to TPL in the trade between U.S. West Coast ports and ports in the Far East. The parties request expedited review.

Agreement No.: 011818.

Title: HL/MSC Charter Agreement.

Parties: Mediterranean Shipping Company, S.A.(MSC), Hapag-Lloyd Container Linie GmbH.

Synopsis: The agreement authorizes MSC to charter space to Hapag-Lloyd in the trade between U.S. Atlantic Coast ports and ports in North Europe.

By Order of the Federal Maritime Commission.

Dated: August 23, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–21949 Filed 8–27–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 02–13]

Pro Transport, Inc. v. HSAC Logistics, Inc. f/k/a Columbus Line USA, Inc., Columbus Line, Inc., and Hamburg-Sud; Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed with the Federal Maritime Commission (''Commission'') by Pro Transport, Inc. (''Complainant'') against HSAC Logistics, Inc. formerly known as Columbus Line USA, Inc., Columbus Line, Inc. and Hamburg-Sud (''Respondents'').

Complainant contends that Respondents violated section 10(b)(10) of the Shipping Act of 1984 by refusing to deal or negotiate in refusing to allow Complainant to use Hamburg-Sud gensets, which provide the electricity needed to keep refrigerated cargo containers (''reefers'') cooled. Complainant states that Respondents'' refusal to provide gensets with its reefers make it impossible for the Complainant to transport those containers to its customers. Complainant also advises that the Respondents have refused to resolve this issue with the Complainant.

Complainant asks that Respondents be required to answer its charges and that the Commission order Respondents to: cease and desist from these violations; to establish and put into force such practices as the Commission determines to be lawful and reasonable; to pay Complainant reparations the amount the Commission determines to be proper as an award, with interest and attorney's fees; and such other and further order or orders the Commission determines to be proper. Complainant requests that any hearings be held in Miami, Florida.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by August 21, 2003, and the final decision of the Commission shall be issued by December 20, 2004.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–21822 Filed 8–27–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Fact Finding Investigation No. 25-; Practices of Transpacific Stabilization Agreement Members Covering the 2002–2003 Service Contract Season; Order of Investigation

Pursuant to the Shipping Act of 1984, 46 U.S.C. app. 1701 *et seq.* (''1984 Act''), the Federal Maritime Commission (''Commission'') is responsible for administering a non-discriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States. Section 10 of the Act contains specific prohibitions against conduct which would conflict with this system of common carriage.

On May 10, 2002, the National Customs Brokers and Forwarders Association of America, Inc. (''NCBFAA'') and the International Association of NVOCCs, Inc. (''IANVOCC'') filed a joint petition, Petition No. P1–02, in which they alleged that members of the Transpacific Stabilization Agreement (''TSA'') have engaged in violations of certain section 10 prohibitions. The petitioners assert that TSA members engaged in a concerted practice of discrimination against non-vessel-operating common carriers (''NVOCCs'') regarding the negotiation of service contracts and the rates established therein for the 2002–2003 contracting season. Specifically, the petitioners alleged that TSA members had entered into an internal agreement, which they subsequently executed, to complete the negotiation and signing of service contracts with proprietary shippers before commencing negotiation of service contracts with NVOCCs. The petitioners further alleged that TSA members had colluded to charge NVOCCs significantly higher rates than assessed to proprietary shippers for the same services. The manner in which TSA members allegedly implemented this agreement was through the discriminatory subjection of NVOCCs, through their service contracts, to general rate increases (''GRIs'') and a peak season surcharge (''PSS''), which were not applied to proprietary shippers through their service contracts.

Upon the filing of Petition No. P1–02, the Commission initially directed its staff to secure and assess additional information regarding TSA member practices during the 2002–2003 contracting season. During the pendency of this informal investigation, TSA and its members announced a second GRI during this contracting season to become effective August 19, 2002. If the petitioners' allegations of concerted action are correct, it would appear that this second GRI was agreed to among TSA members with the knowledge that certain shippers would be exempt from the increase by the terms of their 2002–2003 service contracts. In view of the information presently available and with due regard for the seriousness of the allegations, the Commission has determined to commence this non-adjudicatory investigation to gather additional facts. Specifically, the Investigative Officer named herein is to develop a record on various practices allegedly engaged in by TSA and its members, either individually or collectively, during the 2002–2003 contracting season, including but not limited to:

1. Refusals to deal with NVOCCs until the substantial completion of negotiations with proprietary shippers;

2. The discriminatory application in NVOCC service contracts of GRIs and/or a PSS while waiving or otherwise not requiring similar application in proprietary shipper service contracts;

3. The extent and degree to which the rate increases and service contract policies, practices, and guidelines of TSA have been, and remain, voluntary and non-binding upon its respective members;

4. The extent and degree to which TSA and its members have maintained and transmitted to the Commission full, complete, and accurate minutes of all meetings required to be filed with the Commission; and

5. The development and utilization of open-ended provisions that permit the unilateral implementation of GRIs and/or a PSS by TSA members in their service contracts with NVOCCs, without genuine further negotiation, while waiving or not requiring similar

provisions in their service contracts for proprietary shippers.

The Investigative Officer is to report to the Commission within the time specified herein, with recommendations for any further Commission action, including any formal adjudicatory, injunctive, or rulemaking proceedings, warranted by the factual record developed in this proceeding.

Interested persons are invited and encouraged to contact the Investigative Officer named herein, at (202) 523–5724 (Phone) or (202) 275–0518 (Fax), or by e-mail at *nvopetitiontsa@fmc.gov* should they wish to provide testimony or evidence, or to contribute in any other manner to the development of a complete factual record in this proceeding.

Therefore, it is ordered, That pursuant to sections 5, 8, 10, 11, 12 and 15 of the Shipping Act of 1984, 46 U.S.C. app. 1704, 1707, 1709, 1710, 1711 and 1714, and Part 502, Subpart R of Title 46 of the Code of Federal Regulations, 46 CFR 502.281, *et seq.*, a non-adjudicatory investigation is hereby instituted into the practices of TSA and its members, to develop the issues set forth above and to provide a basis for any subsequent regulatory, adjudicatory or injunctive action by the Commission.

It is further ordered, That the Investigative Officer shall be Commissioner Joseph E. Brennan of the Commission. The Investigative Officer shall be assisted by staff members as may be assigned by the Commission's Executive Director and shall have full authority to hold public or non-public sessions, to resort to all compulsory process authorized by law (including the issuance of subpoenas *ad testificandum* and *duces tecum),* to administer oaths, to require reports, and to perform such other duties as may be necessary in accordance with the laws of the United States and the regulations of the Commission;

It is further ordered, That the Investigative Officer shall issue a report of findings and recommendations no later than January 17, 2003, and interim reports if it appears that more immediate Commission action is necessary, such reports to remain confidential unless and until the Commission provides otherwise;

It is further ordered, That this proceeding shall be discontinued upon acceptance of the final report of findings and recommendations by the Commission, unless otherwise ordered by the Commission; and

It is further ordered, That notice of this Order be published in the **Federal Register**.

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–21950 Filed 8–27–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 1857N.
Name: Air/Sea Forwarding Specialists, Inc.
Address: 4354–A Old Shell Road, #320, Mobile, AL 36608–2000.
Date Revoked: June 19, 2002.
Reason: Failed to maintain a valid bond.

License Number: 3414F.
Name: Byung H. Yoo dba Summit Trans Lines.
Address: 14900 S. Avalon Blvd., Gardena, CA 90248–2013.
Date Revoked: June 23, 2002.
Reason: Failed to maintain a valid bond.

License Number: 2697F.
Name: Carmen Colon dba Carmenco International.
Address: Brooklyn Navy Yard, Bldg. #3, Brooklyn, NY 11205.
Date Revoked: June 5, 2002.
Reason: Failed to maintain a valid bond.

License Number: 4513F.
Name: Kevin C. Ahn dba Baytop Container Co.
Address: 2800 Plaza Del Amo Blvd., Torrance, CA 90503.
Date Revoked: July 5, 2002.
Reason: Failed to maintain a valid bond.

License Number: 2505NF.
Name: Pacific Express Cargo, Inc.
Address: 8125 NW 67th Street, Miami, FL 33166.
Date Revoked: June 20, 2002 and June 30, 2002.
Reason: Failed to maintain valid bonds.

License Number: 3478N.
Name: Sextant Overseas Shipping Corp.
Address: P.O. Box 126, Endid Road, Summit, NY 12175.
Date Revoked: June 19, 2002.
Reason: Failed to maintain a valid bond.

License Number: 15605F.
Name: Solid Trans Inc.
Address: 5146 W. 104th Street, Inglewood, CA 90304.
Date Revoked: June 30, 2002.
Reason: Failed to maintain a valid bond.

License Number: 3873F.
Name: U.S. Cargo, Inc.
Address: 8535 NW 29th Street, Miami, FL 33122–1919.
Date Revoked: July 6, 2002.
Reason: Failed to maintain a valid bond.

Dated: August 23, 2002.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–21948 Filed 8–27–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted by early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANS #	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—07/23/2002			
20020924	Centrica plc	American Electric Power Company, Inc	Mutual Energy CPL L.P. Mutual Energy WTU L.P.
20020967	Liberty Media Corporation	Wink Communications, Inc	Wink Communications, Inc.
20020977	Weston Presidio Capital IV, L.P	HWH Capital Partners, L.P	NBC Acquisition Corp.
20020983	Brera Capital Partners Limited Partnership.	Arias Acquisitions, Inc	Arias Acquisitions, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—07/24/2002			
20020962	Fonterra Co-operative Group Limited	New Zealand Dairy Board	New Zealand Dairy Board.
20020979	Newfield Exploration Company	EEX Corporation	EEX Corporation.
20020981	C–COR.Net Corp	Koninklijke Philips Electronics N.V	Philips Broadband Network, Inc.
20020988	Cargill, Incorporated	Alliant Energy Corporation	Cargill-Alliant, LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—07/25/2002			
20020978	SunGard Data Systems Inc	BRUT LLC	BRUT LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—07/26/2002			
20020917	Sandvik AB	Milacron Inc.	Valenite Inc.
20020958	Welsh, Carson, Anderson & Stowe IX, L.P. (WCAS IX).	Amdocs Limited	Amdocs Limited.
20020990	First Data Corporation	Wachovia Corporation	Wachovia Merchant Service, L.L.C.
20020991	Warburg, Pincus Equity Partners, L.P	Newfield Exploration Company	Newfield Exploration Company.
20020992	Gary L. and Mary E. West	James F. Richards	Attention LLC.
20020994	Midland Financial Co	National Australia Bank Limited	HomeSide Lending, Inc.
20020998	FKA Distributing Co	Bank One Corporation	Maquiladora TCA De Juarez, SA. DE C.V. Metro Corporation. Taylor Precision Products, L.P.
20021001	Permira Europe II L.P.2	Ferretti S.p.A	Ferretti S.p.A.
20021005	Equifax Inc	Naviant, Inc	Naviant, Inc
20021006	Professor Kurt Jenny	IDEC Pharmaceuticals Corporation	IDEC Pharmaceuticals Corporation.
20021009	Citigroup Inc	Antonius M. Kies	ERICO Holding Company.
20021011	Cornerstone Equity Investors IV, L.P	Vestcom International, Inc	Vestcom International, Inc.
20021012	Alimentation Couche-Tard Inc	Dairy Mart Convenience Stores, Inc	Dairy Mart Convenience Stores, Inc. Financial Opportunities, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—07/29/2002			
20020975	Mr. K. Rupert Murdoch	Mr. Fred Eychaner	Newsweb Corporation
TRANSACTIONS GRANTED EARLY TERMINATION—07/30/2002			
20020938	Constellation Energy Group, Inc	The AES Corporation	AES NewEnergy, Inc.
20020941	Goodrich Corporation	TRW Inc	TRW Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—07/31/2002			
20020989	Equifax Inc	CBC Companies, Inc	CBC Companies, Inc.
20021002	Aktieselskabet Dampskibsselskabet TORM.	Dampskibsselskabet ''Norden'' A/S	Dampskibsselskabet ''Norden'' A/S.
20021004	Microchip Technology Incorporated	Fujitsu Limited	Fujitsu Microelectronics, Inc.
20021013	Ripplewood Partners II, L.P	Leslie Jan Leff	AccuCorp Inc. L&R Realty Associates, Inc.
20021014	Ripplewood Partners II, L.P	Ronnie H. Leff	AccuCorp Inc. L&R Realty Associates, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—08/01/2002			
20020756	Fair, Isaac and Company, Inc	HNC Software Inc	HNC Software Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—08/02/2002			
20020944	George J. Petersen	William H. Geiger and Lee Anne F. Geiger.	Aegis Research Corporation.
20020985	Unit Corporation	KFOC Charitable Income Trust B	CREC Rig Acquisition Company.
20020986	KFOC Charitable Income Trust B	Unit Corporation	Unit Corporation.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–21972 Filed 8–27–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 011 0196]

System Health Providers; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 19, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: Barbara Anthony or Michael Bloom, FTC, Northeast Regional Office, One Bowling Green, Suite 318, New York, N.Y., 10004. (212) 607–2828 or (212) 607–2801.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 20, 2002), on the World Wide Web, at ''*http://www.ftc.gov/os/2002/08/index.htm.*'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with Genesis Physicians Group, Inc. (''GPG'') and System Health Providers, Inc. (''SHP'') (''Respondents''). The agreement settles charges that Respondents violated section 5 of the Federal Trade Commission Act, 15 U.S.C. 34, by facilitating and implementing agreements among GPG members on price and other competitively significant terms; refusing to deal with payors except on collectively agreed-upon terms; and negotiating uniform fees and other competitively significant terms in payor contracts and refusing to submit to members payor offers that do not conform to Respondent SHP's standards for contracts. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comments on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by any Respondent that said Respondent violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint

The allegations in the Commission's proposed complaint are summarized below.

Respondent GPG has approximately 1,250 members, almost all of whom are physicians licensed to practice medicine in the State of Texas and engaged in the business of providing professional services to patients in the eastern part of the Dallas-Fort Worth metropolitan area (''Dallas area'').

Respondent SHP is a management services organization, the voting stock of which is wholly owned by GPG.

Physicians often contract with health insurance firms and other third-party payors, such as preferred provider organizations. Such contracts typically establish the terms and conditions, including price terms, under which the physicians will render services to the payors' subscribers. Physicians entering into such contracts typically establish the terms and conditions, including price terms, under which the physicians will render services to the payors' subscribers. Physicians entering into such contracts often agree to lower compensation in order to obtain access to additional patients made available by the payors' relationship with insureds. These contracts may reduce payor costs and enable payors to lower the price of insurance, and thereby result in lower medical care costs for subscribers to the payors' health insurance plans.

Absent agreements among competing physicians on the terms, including price, on which they will provide services to subscribers or enrollees in health care plans offered or provided by third-party payors, competing physicians decide individually whether to enter into contracts with third-party payors to provide services to their subscribers or enrollees, and what prices they will accept pursuant to such contracts.

In order to be competitively marketable in the Dallas area, a payor's health insurance plan must include in its physician network a large number of primary care physicians (PCPs) and specialists who practice in the Dallas area. Many of the PCPs and specialists

who practice in the Dallas area are members of GPG. In particular, GPG members include a large number of PCPs and specialists located near and associated with the two highly-regarded hospitals comprising the Presbyterian Health System. Accordingly, many payors concluded that they could not establish a viable physician network, particularly in areas in which GPG physicians are concentrated, without including a large number of GPG physicians in that network.

Sometimes a network of competing physicians uses an agent to convey to payors information obtained individually from the physicians about fees or other significant contract terms that the physicians are willing to accept. The agent also may convey all payor contract offers to the physicians, which the physicians then unilaterally decide whether to accept or reject. Such a ''messenger model'' arrangement, which is described in the 1996 Statements of Antitrust Enforcement Policy in Health Care jointly issued by the Federal Trade Commission and U.S. Department of Justice (see *http://www.ftc.gov/reports/hlth3s.htm*), can facilitate contracting between physicians and payors and minimize the cost involved, without fostering an agreement among competing physicians on fees or fee-related terms. Such a messenger may not, however, consistent with a competitive model, negotiate fees and other competitively significant terms on behalf of the participating physicians, or facilitate the physicians' coordinated responses to contract offers by, for example, electing not to convey a payor's offer to the physicians based on the messenger's opinion on the appropriateness, or lack thereof, of the offer.

Rather than acting simply as a ''messenger,'' SHP actively bargained with payors, often proposing and counter-proposing fee schedules to be applied, among other terms. To maintain its bargaining power, SHP discouraged GPG members from entering into unilateral agreements with payors. SHP communicated to GPG members the bargaining advantage gained by negotiating with payors collectively through SHP, in general, and SHP's determinations that specific fees and other contract terms being offered by payors were ''not comparable to market standards'' or otherwise were inadequate. Many GPG members have been unwilling to negotiate with payors apart from SHP, and communicated that fact to payors seeking to resist SHP's collectively demands.

SHP had a practice—inconsistent with a messenger model arrangement—of not conveying to GPG members payor offers that SHP deemed deficient, including offers that provide for fees that do not satisfy criteria adopted by SHP's Contracting Committee, which was comprised of 21 GPG members. SHP instead demanded, and often received, more favorable fee and other contract terms—terms that payors would not have offered to GPG's members had those members engaged in unilateral, rather than collective, negotiations with the payors. Only after the payor acceded to fee and other contract terms acceptable to SHP, would SHP convey the payor's proposed contract to GPG members for the consideration.

SHP refused to convey payors' proposed fee and other contract terms to GPG members even where the payor explicitly has requested that it do so. SHP's discouraging of physicians' contracting directly with payors and its unwillingness to convey payors' proposed contracts to GPG members unless and until those offers satisfy SHP's criteria have rendered it less likely and more costly for payors to establish competitive physician networks in the Dallas area without first coming to terms with SHP. As a result, payors often have offered or acceded to SHP demands for supracompetitive fees for all GPG members.

Since July of 1999, GPG, its members, and SHP have entered only into fee-for-service agreements with payors, pursuant to which GPG, its members, and SHP did not undertake financial risk-sharing. Further, GPG members have not integrated their practices to create significant potential efficiencies. Respondents' joint negotiation of fees and other competitively significant terms has not been, and is not, reasonably related to any efficiency-enhancing integration. Instead, the Respondents' acts and practices have restrained trade unreasonably and hindered competition in the provision of physician services in the Dallas area in the following ways, among others: prices and other forms of competition among Respondent GPG's members were unreasonably restrained; prices for physician services were increased; and competition in the purchase of physician services was restrained to the detriment of health plans, employers, and individual consumers. Thus, Respondents' conduct has harmed patients and other purchasers of medical services by restricting choice of providers and increasing the price of medical services.

The Proposed Consent Order

The proposed consent order is designed to prevent recurrence of the illegal concerted actions alleged in the complaint while allowing Respondents and Member-Providers to engage in legitimate joint conduct.

Paragraph II. A prohibits Respondents from entering into or facilitating agreements among providers: (1) to negotiate on behalf of any provider with any payor; (2) to deal, refuse to deal, or threaten to refuse to deal with any payor; (3) regarding any term upon which any providers deal, or are willing to deal, with any payor; and (4) not to deal individually with any payor or through any arrangement other than SHP or GPG. Use of the term ''Provider'' in the proposed order, rather than the narrower term ''physician,'' reflects SHP's inclusion of non-physician providers of ancillary medical services in its contracting arrangements.

Paragraph II.B prohibits Respondents from exchanging or facilitating the transfer of information among Providers concerning any Provider's willingness to deal with a payor, or the terms or conditions, including price terms, on which the Provider is willing to deal.

Paragraph II.C prohibits Respondents from attempting to engage in any action prohibited by Paragraph II.A or II.B. Paragraph II.D prohibits Respondents from encouraging, pressuring, or attempting to induce any person to engage in any action that would be prohibited by Paragraphs II.A through II.C.

Paragraph II contains a proviso that allows Respondents to engage in conduct that is reasonably necessary to the formation or operation of a ''qualified risk-sharing joint arrangement'' or a ''qualified clinically-integrated joint arrangement,'' so long as the arrangement does not restrict the ability, or facilitate the refusal, of participating providers to deal with payors on an individual basis or through any other arrangement. To be a ''qualified risk-sharing joint arrangement,'' an arrangement must satisfy two conditions. First, all participating Providers must share substantial financial risk through the arrangement and thereby create incentives for the participants jointly to control costs and improve quality by managing the provision of services. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. To be a ''qualified clinically-integrated joint arrangement,''

an arrangement must satisfy two other conditions. First, all participants must join in active an ongoing programs to evaluate and modify their clinical practice patterns, creating a high degree of interdependence and cooperation among Providers to control costs and ensure the quality of services provided. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. Both definitions reflect the analyses contained in the 1996 FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care.

Paragraphs III.A and III.B require SHP to distribute the complaint and order to its members, payors with which it previously contracted, and specified others. Paragraph III.C requires SHP to terminate, without penalty, payor contracts that it had entered into during the collusive period, at any such payor's request. This provision is intended to eliminate the effects of Respondents' joint price-setting. Paragraph III also contains a proviso to preserve payor contract provisions defining post-termination obligations relating to continuity of care during a previously begun course of treatment. This proviso was implicit in the ''termination upon request'' provision of the recent Commission Order in Physicians Integrated Services of Denver. To avoid any risk of confusion among affected persons and the public-at-large, the proviso is made explicit here.

The remaining provisions of the proposed order impose complaint and order distribution, reporting, and other compliance-related provisions. For example, Paragraph III.D requires SHP to distribute copies of the Complaint and Order to incoming SHP Providers, payors that contract with SHP or GPG for the provision of Provider services, and incoming SHP and GPG officers, directors, and employees. Further, Paragraph III.F requires SHP to file periodic reports with the Commission detailing how SHP have complied with the Order. Paragraph V. authorizes Commission staff to obtain access to Respondents' records and officers, directors, and employees for the purpose of determining or securing compliance with the Order.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–21969 Filed 8–27–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[Docket No. 9301]

Libbey Inc. and Newell Rubbermaid, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint issued on May 9, 2002, and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 20, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Richard Liebeskind, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington DC 20580, (202) 326–2441.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 3.25(f) of the Commission's Rules of Practice, 16 CFR 3.25(f), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with an accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 21, 2002), on the World Wide Web, at ''*http://www.ftc.gov/os/2002/08/index.htm.*'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov*. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis To Aid Public Comment on Agreement Containing Consent Order

I. Introduction

The Federal Trade Commission has accepted for public comment a Decision and Order (''Proposed Order''), pursuant to an Agreement Containing Consent Order (''Consent Agreement''), against Libbey Inc. and Newell Rubbermaid Inc. (collectively ''Respondents''). The Proposed Order is intended to resolve anticompetitive effects in the United States food service glassware market stemming from the proposed acquisition by Libbey of Anchor Hocking Corporation, a wholly-owned subsidiary of Newell. Under the Proposed Order, Libbey cannot acquire any stock of Anchor or the assets of Anchor's food service glassware business without prior notice to the Commission. Additionally, Newell cannot sell or transfer all or a substantial part of the assets of Anchor's food service business without prior notice to the Commission.

II. The Parties, the Transaction and the History of the Litigation

Libbey is the largest maker and seller of food service glassware in the United States, with substantially more than half of the sales, and has plants located in Ohio, Louisiana and California. Libbey produces and sells food service glassware, a line of products that includes many different styles of tumblers and stemware for beverages. Libbey sells food service glassware to customers that use glassware in the course of serving or selling food or beverages to consumers, including distributors who resell glassware to restaurants, hotels and other such establishments. Besides food service glassware, Libbey produces and sells glassware products ranging from serving platters to candle holders for the retail and industrial segments.

Newell is a diversified company based in Illinois. Anchor is an indirect,

wholly-owned subsidiary of Newell, with manufacturing facilities in Ohio and Pennsylvania. Anchor is the third largest maker and seller of food service glassware in the United States, and as found by a District Court, is Libbey's most formidable competitor in food service. Besides food service glassware, Anchor produces and sells glassware products ranging from bakeware to candle holders for the retail and industrial segments.

Pursuant to an agreement dated June 17, 2001, Libbey proposed to acquire all of the stock of Anchor for Newell (the ''acquisition''). On December 18, 2001, the Commission authorized the commencement of an action under section 13(b) of the FTC Act to seek a preliminary injunction barring the acquisition during the pendency of administrative proceedings. On January 14, 2002, the FTC commenced such an action against Respondents in the United States District Court for the District of Columbia.

Pursuant to an agreement dated January 21, 2002, after the preliminary injunction action was commenced and in response to the Commission's vote to challenge the acquisition, Libbey and Newell amended their merger agreement (the ''amended merger agreement''). The amended merger agreement provided that Libbey would acquire all of the stock of Anchor, but prior to closing Anchor would transfer to Newell's Rubbermaid Commercial Products (''RCP'') division less than 10 percent of the assets of Anchor, and the consideration to be paid by Libbey for Anchor would be reduced by less than 10 percent. Under the amended merger agreement, the assets to be transferred to RCP were most (not all) of the molds, customer relationships and certain other assets used in Anchor's food service glassware business. Anchor would have kept, and Libbey would still have acquired, key assets used by Anchor in the food service glassware business—most significantly, Anchor's two glassware manufacturing plants. Newell would not retain any capability to manufacture glassware.

In its Amended Complaint, filed February 22, 2002, the FTC alleged that the acquisition pursuant to the amended merger agreement would substantially lessen competition. The proposed merger would eliminate Anchor as a competitor from the food service glassware market and RCP would be unable to replace Anchor as a viable competitor. The Commission later issued a statement on April 2, 2002, in which it reaffirmed its position that the amended merger would result in a lessening of competition in violation of the Clayton and FTC Acts. Statement of the Federal Trade Commission Regarding *FTC* v. *Libbey Inc., et al.,* Apr. 2, 2002.

On April 22, 2002, the District Court granted the FTC's motion for a preliminary injunction pending the completion of administrative adjudication. Memorandum Opinion (''Op.'') (*FTC* v. *Libbey Inc., et al.,* 2002 U.S. Dist. LEXIS 8867 (D.D.C., Apr. 22, 2002)).

In granting the FTC's motion, the Court found that Libbey dominates the food service glassware market with a 65 percent share, while Anchor, with seven percent of the market, has the third largest share. Op. at 3. Although Libbey's market share dwarfs Anchor's, the Court found that ''Anchor is Libbey's most formidable competitor in the food service glassware market,'' because it is ''the largest seller of Libbey look-alikes,'' *id.* at 18, and because its prices ''are frequently 10 to 20 percent lower than Libbey's prices,'' *id.* at 5.

The Court concluded that both the acquisition and the amended merger likely would reduce competition in the food service glassware market; the food service glassware market was highly concentrated, and, ''if what is now Anchor were eliminated from the market, there are no other viable alternatives to Libbey's food service glassware that consumers could [rely] upon to acquire their glassware at the lower prices now offered by Anchor.'' *Id.* at 28. Moreover, the Court held that RCP would not replace Anchor as an effective competitor. Because RCP would not retain important assets, such as Anchor's manufacturing plants, brand name, customer relationships, and key employees, the Court held that the amended merger would have the same anti-competitive effects as if Libbey had acquired all of Anchor. *Id.* at 23.

On May 2, 2002, Respondents moved to vacate the preliminary injunction order on the ground that Newell and a third party supplier had modified the price term under a glassware supply agreement for RCP. On May 17, 2002, the District Court denied Respondents' motion because of the numerous other cost components that would likely make RCP's costs substantially higher than Anchor's costs and, therefore, not a viable competitive alternative to Anchor. *FTC* v. *Libbey Inc.,* Order Denying Defendants' Motion to Vacate, May 17, 2002. Reiterating the reasons in its earlier opinion, the Court stated that ''the FTC's concerns remain[ed] plausible'' and noted that the appropriate venue to fully evaluate the amended merger was at a full administrative hearing before the FTC. *Id.* at 3.

Following the District Court's preliminary injunction order, on May 9, 2002, the Commission issued its complaint against Respondents. Shortly after answering the complaint, on June 10, 2002, Respondents announced that they had withdrawn plans for Libbey to acquire Anchor from Newell. On July 23, 2002, Respondents entered into the Consent Agreement. Pursuant to Rule 3.25 of the Commission's rules of practice, 16 CFR 3.25, a motion was filed to withdraw the matter from adjudication, and on July 25, 2002, the matter was withdrawn from adjudication for the purpose of considering the Consent Agreement.

III. The Complaint

In its administrative complaint, the FTC charged that both the acquisition and the amended merger violated the Clayton and FTC Acts. The complaint alleges that the acquisition and the amended merger would eliminate competition between Libbey and Anchor, increase market concentration, and increase barriers to entry. The complaint also alleges that the amended merger would impair the viability of Newell as a competitor in the sale of food service glassware.

IV. Terms of the Proposed Order

The Proposed Order (''Order'') is effective for 10 years and requires Libbey and Newell to provide the Commission with written notices prior to the acquisition, sale, transfer, or other conveyance of all or part of Anchor or Anchor's Food Service Business. Under the terms of the Order, Libbey is required to provide the Commission with prior written notice of its acquisition of any interest in Anchor's stock or in the assets of Anchor's Food Service Business. Order ¶ II. In addition, Newell must provide the Commission with prior written notice if it sells, transfers, or otherwise conveys any part of Anchor's Food Service Business to any entity not included within Newell. Order ¶ III. If Newell sells, transfers or otherwise conveys Anchor's Food Service Business to Libbey or Vitocrisa, Newell's obligation to notify the Commission extends for 10 years. *Id.* In all other circumstances, Newell is obligated to provide notice for five years. *Id.*

Anchor's Food Service Business is defined as ''all of Anchor's rights, title, and interest in and to all assets and businesses, tangible or intangible, anywhere in the world, used in the research, development, manufacture, distribution, licensing, marketing, or

sale of glassware products to Food Service Customers in the United States,'' and expressly includes assets that Newell may have internally transferred to other divisions on or after June 10, 2002. Order ¶ I.G. Anchor's Food Service Business does not include items that are generally available, are not unique to the glassware industry, or are minimally used in the production of food service glassware, such as sand, scrap metal, and office equipment, *Id.*

V. Opportunity for Public Comment

The Proposed Order has been placed on the public record for 30 days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Consent Agreement and the comments received and will decide whether to make the Proposed Order final. By accepting the Consent Agreement subject to final approval, the Commission anticipates that the competitive problems alleged in the Complaint will be resolved.

The Commission invites public comment to aid the Commission in determining whether it should make final the Proposed Order contained in the Consent Agreement. The Commission does not intend this analysis to constitute an official interpretation of the Proposed Order, nor does this analysis modify in any way the terms of the Proposed Order.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–21970 Filed 8–27–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 011 0175]

R.T. Welter and Associates, Inc., *et al.*; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 19, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Jeffrey Brennan, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington DC 20580, (202) 326–3688.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and section 2.34(f) of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 20, 2002), on the World Wide Web, at ''*http://www.ftc.gov/os/2002/08/index.htm*.'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov*. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with R.T. Welter and Associates, Inc. (''RTWA''), R. Todd Welter, and the following medical group practices (hereinafter ''Respondent Practice Groups''): Cohen and Womack, M.D., P.C.; Consultants in Obstetrics and Gynecology, P.C.; Mid Town Obstetrics & Gynecology, P.C.; Mike High OB/GYN Associates; P.C.; The OB–GYN Associates Professional Corporation; Rocky Mountain OB–GYN, P.C.; Westwide Women's Care, L.L.P.; and The Women's Health Group, P.C. Mr. Welter, RTWA and the Respondent Practice groups are collectively referred to as ''Respondents.'' The agreement settles charges that Respondents violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by facilitating and implementing agreements among the obstetricians and gynecologists represented by Mr. Welter to fix prices and other terms of dealing with health insurance firms and other third-party payors (hereinafter, ''payors''), and to refuse to deal with payors except on collectively determined terms. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by any Respondent that said Respondent violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint

The allegations in the Commission's proposed complaint are summarized below.

Mr. Welter is a non-physician consultant who, through his company RTWA, organized approximately 88 physicians specializing in obstetrics and gynecology (''OB/GYNs'') into a concerted group for the purpose of

negotiating as a bloc with payors over contract terms. Respondents called their group ''Professionals in Women's Care'' (''PIWC''). About half of PIWC's physicians practice medicine through one of the eight Respondent Practice Groups, all but one of which are corporations (the other is a partnership), consisting of OB/GYNs practicing medicine. Except to the extent that competition has been restrained in the manner set forth in the proposed Complaint, the Respondent Practice Groups and other physicians who participated in PIWC compete with each other in the provision of OB/GYN services in the Denver, Colorado metropolitan area.

PIWC came together in 1999 in response to a proposed contract that PacifiCare Health Systems of Colorado (''PacifiCare''), a payor doing business in the Denver area, offered to OB/GYNs in the region. The Respondent Practice Groups opposed the fees and other provisions contained in PacifiCare's offer, and convened a meeting among all of them to discuss strategies for resisting PacifiCare's terms and forcing it to offer a contract that was more lucrative for the physicians. The Respondent Practice Groups retained Mr. Welter to negotiate a different contract on their collective behalf with PacifiCare.

PIWC became a vehicle for the OB/GYN to use their collective bargaining power to negotiate for higher fees and other, more advantageous terms in contracts with payors than they could have obtained by negotiating unilaterally. The Respondent Practice Groups formed a ''Steering Committee'' among themselves to determine contract strategy and give instruction and guidance to Mr. Welter in his dealings with payors over contract terms. Mr. Welter and the Respondent Practice Groups also recruited additional OB/GYNs into PIWC—bringing its total membership to more than 80 physicians.

The PIWC physicians authorized Mr. Welter to advise PacifiCare that they rejected its latest contract offer. Mr. Welter told PacifiCare, among other things, that the physicians had joined together to secure higher fees, that they refused to sign a contract without those fees, and that the physicians would negotiate only through him. To be competitively marketable to employers and other purchasers in the Denver metropolitan area, a payor must include in its network of participating physicians a large number of OB/GYNs. Faced with the prospect of having no contracts with the OB/GYNs involved in PIWC, PacifiCare agreed to the terms that Mr. Welter and the PIWC physicians demanded.

Mr. Welter and Respondent Practice Groups, through PIWC, exploited their collective bargaining strength in contract negotiations with several other payors as well. In some cases, at the urging of Mr. Welter, large numbers of PIWC physicians sent contract termination notices to payors that refused to negotiate with Mr. Welter or that resisted the fee increases he demanded on their behalf. Faced with the threat of a boycott and the inability to include this large group of OB/GYNs in their networks of participating physicians, these payors ultimately acceded to Mr. Welter's demands for the PIWC physicians. In these ways, the PIWC physicians received contract terms that were more economically advantageous to them than they could have obtained by negotiating individually rather than collectively. They also received fees that were higher than those that payors were paying to other OB/GYNs in the Denver metropolitan area.

Sometimes a network of competing physicians uses an agent to convey to payors information obtained individually from the physicians about fees or other significant contract terms that they are willing to accept. The agent may also convey to the physicians all payor contract offers, which the physicians then unilaterally decide whether to accept or reject. Such a ''messenger model'' arrangement, which is describe in the 1996 Statements of Antitrust Enforcement Policy in Health Care jointly issued by the Federal Trade Commission and U.S. Department of Justice (see *http://www.ftc.gov/reports/hlth3s.htm.*), can facilitate and minimize the costs involved in contracting between physicians and payors, without fostering an agreement among competing physicians on fees or fee-related terms. Such a messenger may not, however, consistent with a competitive model, negotiate fees and other competitively significant terms on behalf of the participating physicians, or facilitate the physicians' coordinated responses to contract offers by, for example, electing not to convey a payor's offer to the physicians bases on the messenger's opinion on the appropriateness, or lack thereof, of the offer.

Mr. Welter purported to operate as a messenger, but, in practice, he did not do so. Rather, Mr. Welter used the information he gathered from the PIWC participants, including Respondent Practice Groups, to negotiate fees and other competitively significant terms on the PIWC participants' collective behalf. Mr. Welter, with the Steering Committee's concurrence, would not convey a contract offer to the group of PIWC physicians if he believed that the contract's terms were deficient.

Mr. Welter and the Respondent Practice Groups solicited de facto exclusivity to increase PIWC's collective bargaining power with payors. They persuaded PIWC physicians to terminate affiliations with professional organizations such as independent practice associations and practice management groups to force payors that wanted contracts with the PIWC physicians to deal with Mr. Welter.

Respondents' joint negotiation of fees and other competitively significant terms has not been reasonably related to any efficiency-enhancing integration. PIWC participants did not accept any form of financial risk-sharing, through arrangements such as capitation or fee withholds, and they have not clinically integrated their practices to create sufficiently substantial potential efficiencies. Respondents' actions have restrained price and other forms of competition among the PIWC participants, caused fees for obstetrical and gynecological services to rise, and harmed consumers, including payors, employers, and individual patients.

The Proposed Consent Order

The proposed order is designed to prevent recurrence of these illegal concerted actions, while allowing Respondents to engage in legitimate conduct that does not impair competition. The proposed order's core prohibitions are contained in Paragraphs II. and III.

Paragraph II. is intended to prevent the Respondents from participating in, or creating, future unlawful physician agreements.

Paragraph II.A. prohibits RTWA, Mr. Welter, and Respondent Practice Groups from entering into or facilitating any agreement between or among any physicians: (1) To negotiate with payors on any physician's behalf; (2) to deal, not to deal, or threaten not to deal with payors; (3) on what terms to deal with any payor; or (4) not to deal individually with any payor, or to deal with any payor only through an arrangement involving the Respondents.

Paragraph II.B. prohibits these Respondents from facilitating exchanges of information between physicians concerning whether, or on what terms, to contract with a payor. Paragraph II.C. prohibits them from attempting to engage in any action prohibited by Paragraph II.A. or II.B. Paragraph II.D. prohibits them from inducing anyone to

engage in any action prohibited by Paragraph II.A. through II.C.

Paragraph II. also contains two provisos intended to clarify certain types of agreements that Paragraph II. does not prohibit. The first proviso applies to RTWA and Mr. Welter, and the second to the Respondent Practice Groups. Each provides that nothing in Paragraph II. prohibits the applicable Respondent from engaging in conduct that is reasonably necessary to form, participate in, or act in furtherance of, a ''qualified risk-sharing joint arrangement'' or a ''qualified clinically-integrated joint arrangement.''

As defined in the proposed order, a ''qualified risk-sharing joint arrangement'' must satisfy two conditions. First, all physician participants must share substantial financial risk through the arrangement and thereby create incentives for the physician participants jointly to control costs and improve quality by managing the provision of services. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. The definition of financial risk-sharing tracks the discussion of that term contained in the Health Care Statements.

As defined in the proposed order, a ''qualified clinically-integrated joint arrangement'' also must satisfy two conditions. First, all physician participants must participate in active and ongoing programs to evaluate and modify their clinical practice patterns, creating a high degree of interdependence and cooperation among physicians, in order to control costs and ensure the quality of services provided. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. This definition also reflects the analysis contained in the Health Care Statements.

Paragraph II.'s provisos also provide that Paragraph II. does not prohibit the Respondents from facilitating an agreement solely between physicians who are part of the same medical group practice. The proposed order defines such a practice as a bona fide, integrated firm in which physicians practice medicine together as partners, shareholders, owners, members, or employees or in which only one physician practices medicine.

Paragraph III. prohibits RTWA and Mr. Welter, for a period of three years, from negotiating with any payor on behalf of any PIWC physician, and from advising any PIWC physician to accept or reject any term, condition, or requirement of dealing with any payor.

Mr. Welter is not prohibited from performing legitimate ''messenger'' services, including with respect to PIWC physicians. As noted above, a properly constituted messenger can efficiently facilitate the establishment of physician-payor contracts and avoid fostering unlawful agreements among the participating physicians. As set forth in the proposed complaint, however, while Mr. Welter purported to operate as a legitimate messenger, in practice he fostered anticompetitive physician agreements by negotiating directly with payors for higher fees on behalf of all PIWC participants, and by advising the PIWC participants collectively to reject various payor offers and to engage in concerted refusals to deal. For this reason, Paragraph III. is a necessary and appropriate supplement to Paragraph II.'s provisions. Under the proposed order, Mr. Welter may serve as a messenger for PIWC physicians, but, pursuant to Paragraph III., may not negotiate for or advise any PIWC physician with respect to payor contracts.

Paragraphs IV.A. and IV.B. require RTWA to distribute the complaint and order to all physicians who participated in PIWC and to the payors that negotiated contracts with RTWA or Mr. Welter on behalf of any Respondent Practice Group. Paragraph VI.A. requires Respondent Practice Groups to terminate, without penalty, at any payor's request, current contracts, with respect to providing physician services, negotiated by Mr. Welter with payors. This provision is intended to eliminate the effects of Respondents' anticompetitive concerted actions.

The remaining provisions of Paragraphs IV. through VIII. of the proposed order impose obligations on Respondents with respect to distributing the proposed complaint and order to various persons and reporting information to the Commission. For example, Paragraph IV.C. and V.A. require RTWA and Mr. Welter, respectively, to distribute copies of the complaint and order to the physicians on whose behalf they negotiate payor contracts, and to those payors. Paragraphs IV.E., V.B., and VI.B require the Respondents to file periodic reports with the Commission detailing how the Respondents have complied with the order. Paragraph VIII. authorizes Commission staff to obtain access to Respondents' records and officers, directors, partners, and employees for the purpose of determining or securing compliance with the order.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–21971 Filed 8–27–02; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Public Meeting/Opportunity for Public Comment: Framework Convention on Tobacco Control (FCTC)

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science/ Office of Global Health Affairs.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) is soliciting comments on the Framework Convention on Tobacco Control (FCTC), a proposed international legal instrument intended to address the global problem of tobacco use. Individuals and organizations are encouraged to comment on the FCTC in one or both of the following ways: (1) In writing, by submission through the mails, or e-mail; (2) in person, at a public meeting that will be convened in Nashville, TN.

DATES: Written comments may be submitted until September 27, 2002. Comments can be submitted by mail or electronically (electronic submissions are encouraged).

ADDRESSES: To submit electronic comments, send via e-mail to *FCTC.OGHA@osophs.dhhs.gov.* To submit comments by mail, send to: FCTC Comments (Attn: Ms. Gail Zaslow), Office of Global Health Affairs, 5600 Fishers Lane, Room 18–105, Rockville, MD 20857.

The public meeting will be held on September 20, 2002, from 9:15 a.m. to 5 p.m. at the Nashville Public Library, 615 Church Street, Nashville, TN 37219. Seating capacity is 125 people. Comments also will be accepted during the public meeting. Those who wish to attend are encouraged to register early with the contact person listed below. If you will require a sign language interpreter, or have other special needs, please notify the contact person by 4:30 E.D.T. on September 5, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Joy Epstein, Office of Global Health Affairs, 5600 Fishers Lane, Room 18–105, Rockville, MD 20857, 301–443–

1774 (telephone) or 301–443–6822 (facsimile) or *FCTC.OGHA@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: In May 1999, the World Health Assembly, the governing body of the World Health Organization, unanimously adopted resolution WHA 52.18 calling for negotiation of a Framework Convention on Tobacco Control support (FCTC). The United States joined other countries in voicing support for negotiation of the convention, which is intended to address the global problem of tobacco use. Following two meetings of an FCTC working group held in Geneva in October 1999 and March 2000, an Intergovernmental Negotiating Body (INB) was established to negotiate the text of the FCTC and related protocols. Four meetings of the INB have been conducted, in October 2000, April and November 2001, and March 2002. A negotiating team headed by staff of the Office of Global Health Affairs (DHHS) represented the United States. Other members of the negotiating team represented HHS, the Departments of State, Treasury, Justice, Agriculture, and the U.S. Trade Representative. An interagency working group developed the guidance for the negotiating team.

The fifth INB session is scheduled for October 14–25, 2002.

(Background documents on the FCTC are available on the World Health Organization's Web site at *http://tobacco.who.int/en/fctc/index.html.*)

Written Comments: In preparation for the fifth INB session, the U.S. negotiating delegation is seeking comments from the public on the FCTC. A new draft of the FCTC was released by the chairman of the INB on July 16, 2002. It is available at *http://www.who.int/gb/fctc/PDF/inb5/einb52.doc.* Comments should be based on this version of the draft convention.

Announcement of Meeting: The U.S. Government is seeking to understand the perspectives of various organizations and individuals on the FCTC. The comment period and public meeting are intended to give interested persons, including public health and medical professionals, state and local officials, farmers, retailers, manufacturers, and others an opportunity to comment on the FCTC. Respondents to this notice will have the opportunity to speak to representatives of the government.

Meeting Location and Registration: The public meeting will be held on September 20, 2002, from 9:15 a.m. to 5 p.m. at the Nashville Public Library, 615 Church Street, Nashville, TN 37219.

If you would like to attend the public meeting, you are encouraged to register early by providing your name, title, firm name, address, and telephone number to Gail Zaslow (contact information above). The U.S. Government encourages individuals to submit written comments, either electronically or by mail. Comments also will be accepted during the meeting. If you would like to speak at the meeting, please notify Gail Zaslow (address above) when you register.

The transcript of the public meeting and submitted comments will be posted on the Internet at *http://www.cdc.gov/tobacco/global/framework.htm.*

Dated: August 21, 2002.

William R. Steiger,

Special Assistant to the Secretary for International Affairs and Director, Office of Global Health Affairs.

[FR Doc. 02–21842 Filed 8–27–02; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–69]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Work Organization Predictors of Depression in Women—NEW—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background

Depression is a costly and debilitating occupational health problem. Research has indicated that the costs to an organization of treatment for depression can rival those for heart disease, and both major depressive disorder and forms of minor depression have been found to be associated with more disability days than other types of health diagnoses. This may be of particular relevance for working women. Various national and international studies indicate that women in developed countries experience depression at up to twice the rate of men. Studies that have examined this gender difference have focused on social, personality, and genetic explanations while few have explored factors in the workplace that may contribute to the gender differential. Examples of workplace factors that may contribute to depression among women include: additive workplace and home responsibilities, lack of control and authority, and low paying and low status jobs. Additionally, women are much more likely to face various types of discrimination in the workplace than men, ranging from harassment to inequalities in hiring and promotional opportunities, and these types of stressors have been strongly linked with psychological distress and other negative health outcomes. On the positive side, organizations that are judged by their employees to value diversity and employee development engender lower levels of employee stress, and those that enforce policies against discrimination have more committed employees. Such organizational practices and policies may be beneficial for employee mental health, particularly the mental health of women.

This research will focus on the following questions: (1) Which work organization factors are most predictive of depression in women, and (2) are there measurable work organization factors that confer protection against depression in women employees.

The research will use a repeated measures, prospective design with data collection at three points (baseline and 1-year and 2-year follow-ups). A 30–40 minute survey will be administered by

telephone to 2500–3000 newly employed women and men at 25 or more different organizations. The survey will contain questions about: (1) Traditional job stressors (*e.g.*, changes in workload, social support, work roles); (2) stressors not traditionally examined, but may be linked with depressive symptoms among women (*e.g.*, roles and responsibilities outside of the workplace, discrimination, career issues); (3) depression symptoms; and (4) company policies, programs, and practices. One Human Resource (HR) representative at each company will also be surveyed about company policies, programs and practices. Analyses will determine which work organization factors are linked with depressive symptoms and what effect the organizational practices/policies of interest have on depression. Findings from this prospective study will also help target future intervention efforts to reduce occupationally-related depression in women workers. There is no cost to respondents.

Respondents	No. of respondents	No. of responses/ respondent	Avg. burden response (in hours)	Total burden (in hours)
Employees	3000	3	40/60	6000
HR Representative	30	3	20/60	30
Total				6030

Dated: August 21, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–21877 Filed 8–27–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–46–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Evaluability Assessment of the Rape Prevention and Education Grant Program—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC). The Rape Prevention and Education (RPE) Grant Program strengthens violence against women prevention efforts by supporting increased awareness, education and training, and the operation of hotlines. The purpose of this program is to award formula grants to States and Territories to be used for RPE programs conducted by rape crisis centers, state sexual assault coalitions, and other public and private nonprofit entities.

Although the Rape Prevention and Education program has been funded since 1996 little is known about how the funds are allocated and utilized in each state and what each states public health needs are with regard to rape prevention and education. In order to effectively administer and collaboratively work with states to enhance the utilization of these funds, the CDC needs to know how these funds are allocated, what activities are being conducted with these funds and the kinds of data they are collecting. The primary objectives of this study are to: 1. Document the intended goals and objectives of the RPE program as it relates to the activities of state health departments and sexual assault coalitions, from the perspective of various stakeholder levels (*e.g.*, National, state and local); 2. Assess the allocation mechanisms, uses, and impact of the funds for RPE as they relate to these documented intentions; and, 3. Assess public health needs of states and local programs in terms of knowledge, skills, resources, and barriers to effective implementation.

To meet these objectives, a variety of data collection tasks will be employed. A critical review of the published literature and related materials pertaining to the monies for RPE will be conducted to provide guidance for the survey instrument development. Two e-mail surveys will be conducted: one with the state health department RPE coordinators and the other with sexual assault coalition directors. Each survey instrument will take approximately 30 minutes to complete. Site visits will be conducted with a sample of 15 sites to obtain more detailed information about the RPE programs and the current systems in place. Sites will be purposefully selected to maximize variability and interviews will be conducted with both the state health department RPE coordinators and the state sexual assault coalition directors. The estimated annualized burden is 427 hours.

Instrument	No. of respondents	No. of responses/ respondent	Avg. burden/ response (in hours)
REP Grant Program Web Survey			
DOH RPE Coordinators	59	1	45/60
Coalition Directors	52	1	45/60
Other Agency Reps	10	1	45/60
RPE Grant Program Site Visit Interview Guide			
DOH RPE Coordinators	15	1	180/60*
Coalition Directors	13	1	180/60*
Other Agency Reps	4	1	180/60*
RPE Grant Program Local Provider Focus Group Guide	120	1	240

*This time also includes time for a conference call with DOH RPE Coordinators and Sexual Assault Coalition Directors.

Dated: August 21, 2002.

Julie Fishman,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–21876 Filed 8–27–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–48–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

National Health Interview Survey, 2003 Basic Module with Topical Modules (0920–0214)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). The annual National Health Interview Survey (NHIS) is a basic source of general statistics on the health of the U.S. population. In accordance with the 1995 initiative to increase the integration of surveys within the Department of Health and Human Services, respondents to the NHIS serve as the sampling frame for the Medical Expenditure Panel Survey. This survey is conducted by the Agency for Healthcare Research and Quality. The NHIS has long been used by government, university, and private researchers to evaluate both general health and specific issues, such as cancer, AIDS, and childhood immunizations. Journalists use its data to inform the general public. It will continue to be a leading source of data for the Congressionally mandated ''Health US'' and related publications, as well as the single most important source of statistics to track progress toward the National Health Promotion and Disease Prevention Objectives, ''Healthy People 2010.''

Because of survey integration and changes in the health and health care of the U.S. population demands on the NHIS have changed and increased, leading to a major redesign of the annual core questionnaire, or Basic Module, and a shift from paper questionnaires to computer assisted personal interviews (CAPI). These redesigned elements were partially implemented in 1996 and fully implemented in 1997. This clearance is for the seventh full year of data collection using the core questionnaire on CAPI, and for the implementation of supplements on asthma, heart disease, children's mental health, cancer screening, and diabetes. The supplements will help track many of the Health People 2010 objectives. This data collection, planned for January–December 2003, will result in publication of new national estimates of health statistics, release of public use micro-data files, and a sampling frame for other integrated surveys. The total annual burden for this data collection is 39,300 hours.

Respondents	No. of respondents	No. of responses/ respondent	Avg. burden/ response (in hours)
Family	39,000	1	21/60
Sample adult	32,000	1	42/60
Sample child	13,000	1	15/60

Dated: August 12, 2002.

Julie Fishman,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–21878 Filed 8–27–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–838]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare Credit Balancing Reporting Requirements and Supporting Regulations at 42 CFR 405.371, 405.378, and 413.20; *Form No.:* CMS–838 (OMB# 0938–0600); *Use:* The collection of credit balance information is needed to ensure that millions of dollars in improper program payments are collected. Approximately 46,700 providers will be required to submit a quarterly credit balance report that identifies the amount of improper payments due Medicare. Fiscal intermediaries will monitor the reports to ensure these funds are collected; *Frequency:* Quarterly; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 46,700; *Total Annual Responses:* 186,800; *Total Annual Hours:* 1,120,800.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or

call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 13, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 02–21825 Filed 8–27–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–1856/1893]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Request for Certification in the Medicare/Medicaid Program to Provide Outpatient Physical Therapy and/or Speech-Language Pathology and the Outpatient Physical Therapy and/or Speech-Language Pathology Survey Report Form and Supporting Regulations in 42 CFR 485.701–485.729; *Form No.:* CMS–1856/1893 (OMB# 0938–0065); *Use:* The form CMS–1856 is utilized as an application to be completed by suppliers of OPT/SP services requesting participation in the Medicare/Medicaid programs. This form initiates the process of obtaining a decision as to whether the conditions of coverage are met as an OPT/SP supplier. It is used by the CMS Regional Offices (ROs) to enter the new supplier into the Online Survey, Certification and Reporting System (OSCAR). The survey report form CMS–1893 is an instrument used by the State survey agency to record data collected during an on-site survey of a supplier of OPT/SP services to determine compliance with the applicable conditions of participation and to report this information to the Federal Government. The form is primarily a coding worksheet designed to facilitate data reduction and retrieval into the OSCAR system at the CMS ROs. The form includes basic information on compliance (*i.e.,* met, not met, explanatory statements) and does not require any descriptive information regarding the survey activity itself.; *Frequency:* On occasion; *Affected Public:* Business or other for profit; *Number of Respondents:* 1,700; *Total Annual Responses:* 255; *Total Annual Hours:* 446.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 20, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances.

[FR Doc. 02–21826 Filed 8–27–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Award of Non-Competitive Grant

AGENCY: Administration on Children, Youth and Families (ACYF), ACF, DHHS.

ACTION: Notice; Opportunity to Comment.

SUMMARY: Notice is hereby given that ACYF is considering awarding discretionary research grant funds without competition to The Urban Institute at 2100 M St. NW., Washington, DC, for up to $375,000 of Child Care and Development Block Grant funds in FY 2002. And, pending the availability of Federal funds, and the continuing non-Federal support of the project from other sources, ACYF will award up to $375,000 of Child Care and Development Block Grant funds for one additional fiscal year. The two-year project period would begin on September 30, 2002 and end on September 29, 2004. This award will be made to The Urban Institute to provide Federal support for a research project that will examine the interaction of child care providers and child care subsidy policies and practice.

The Urban Institute's research project addresses many questions of relevance to the child care field, to ACF, and to the Child Care Bureau in particular. It will fill a gap in the information currently available about the characteristics of subsidized and unsubsidized providers, and how implementation of subsidy policies affects the experiences of those providers. In addition, the study will explore the rate of participation of faith-based organizations in the child care subsidy system, addressing one of the Administration's priorities. It will also explore the occurrence of activities supporting children's early learning and literacy in diverse child care settings, as well as providers' characteristics that may be related to the likelihood of those activities being present in child care settings. The study answers a call for needed research on providers as expressed by researchers and policymakers in the most recent meeting of the Child Care Research Consortium held in Washington, DC on April 17–19, 2002.

The proposed project has a strong research design and methodology, builds on a solid understanding of the current state of research in the child

care field, and is lead by a very experienced team of researchers in child care policy research. The data collected through this study will provide information urgently needed by policymakers in the current environment of the next phase of welfare reform.

The Urban Institute is in a unique position to conduct this much-needed research because:

- They have developed a network of State and local connections and knowledge base while conducting their work on the Assessing the New Federalism Project, as well as a previous project on the experiences of families with the subsidy system, funded by ACF; and
- They have started the planning phase and ground work for the proposed project with funding secured through a foundation.

The Agency is providing members of the public, including qualified organizations which would be interested in competing for the funding if a competition were held, an opportunity to comment on the planned action.

Statutory Authority: This award will be made pursuant to the Child Care and Development Block Grant Act of 1990 as amended (CCDBG Act); section 418 of the Social Security Act; Consolidated Appropriations Act, 2001 (Pub. L. 106–554). The Catalog of Federal Domestic Assistance is 93.647.

DATES: In order to be considered, comments on this planned action must be received on or before September 9, 2002.

ADDRESSES: Interested parties, including qualified organizations which would be interested in competing for the funding if a competition were held, should write to: Karen Tvedt, Child Care Bureau, Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services, 330 C Street SW., Room 2046, Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Karen Tvedt, Child Care Bureau, at (202) 401–5130.

Catalog of Federal Domestic Assistance Program Number 93.647, Child Care Research Discretionary Grants

Dated: July 29, 2002.

Joan E. Ohl,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 02–21980 Filed 8–27–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02F–0327]

ADM Alliance Nutrition, Inc.; Filing of Food Additive Petition (Animal Use)-Feed-Grade Biuret

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that ADM Alliance Nutrition, Inc. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of feed-grade biuret in lactating dairy cattle feed.

DATES: Submit written or electronic comments on the petitioner's environmental assessment by November 11, 2002.

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

FOR FURTHER INFORMATION CONTACT: Sharon Benz, Center for Veterinary Medicine (HFV–228), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6656.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2248) has been filed by ADM Alliance Nutrition, Inc., 1000 North 30th St., P.O. Box C1., Quincy, IL 62305–7100. The petition proposes to amend the food additive regulations in Part 573 *Food Additives Permitted in Feed and Drinking Water of Animals* (21 CFR part 573) to provide for the safe use of feed-grade biuret in lactating dairy cattle feed.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental information submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (see **ADDRESSES**) for public review and comment.

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 5, 2002.

Linda Tollefson,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 02–21698 Filed 8–27–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–0053]

Determining Hospital Procedures for Opened-But-Unused, Single-Use Medical Devices; Request for Comments and Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing an opportunity for interested persons to submit comments about current practices with respect to opened-but-unused, single-use medical devices. FDA is publishing this notice in order to gather informed comment from individuals, professional organizations, original equipment manufacturers, reprocessors, and hospitals as it examines its policy with respect to opened-but-unused, single-use medical devices.

DATES: Submit written comments by November 26, 2002.

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

FOR FURTHER INFORMATION CONTACT: Larry Spears, Center for Devices and Radiological Health (HFZ–300), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4692.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 14, 2000 (65 FR 49583), FDA published a guidance entitled ''Enforcement Priorities for Single-Use Devices Reprocessed by Third Parties and Hospitals.'' The guidance defined ''opened-but-unused'' devices as:

> Single-use, disposable devices whose sterility has been breached or compromised, or whose sterile package was opened but not been used on a patient, that is, they have not been in contact with blood or bodily fluids.

The guidance did not apply the agency's enforcement priorities for reprocessed devices to opened-but-unused, single-use medical devices reprocessed in hospitals. The guidance did state, however, that the agency would examine its policy with respect to opened-but-unused, single-use medical devices. In doing so, FDA is soliciting information about current practices regarding this issue. A copy of the guidance is available on FDA's Web site at http://www.fda.gov/cdrh/reuse/1168.html.

FDA is interested in comments related to: (1) Whether or not hospitals have a written policy or procedure for handling sterile, single-use medical devices that are opened, for whatever reason, but are unused; (2) how hospitals determine if a single-use medical device that has been opened but unused is contaminated; and (3) what types of single-use medical devices are resterilized because they are opened but unused.

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**), written or electronic comments or information regarding this issue by [*insert date 90 days after date of publication in the* **Federal Register**]. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 19, 2002.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–21891 Filed 8–27–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Mental Health Services; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Center for Mental Health Services (CMHS) National Advisory Council in September 2002.

A portion of the meeting will be open and will include a roll call, general announcements, and discussion about the Substance Abuse and Mental Health Service's matrix program areas, the New Freedom Commission on Mental Health, the Center for Mental Health Service's disparities grant program, and consumer affairs.

Public comments are welcome. Please communicate with the individual listed as contact below for guidance. If anyone needs special accommodations for persons with disabilities please notify the contact listed below.

The meeting will also include the review, discussion, and evaluation of grant applications. Therefore a portion of the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2. & 10 (d).

A summary of the meeting and a roster of Council members may be obtained from Ms. Eileen Pensinger, Executive Secretary, CMHS, Room 15–99, Parklawn Building, Rockville, Maryland 20857, telephone (301) 443–4823.

Committee Name: CMHS National Advisory Council.

Meeting Date: September 5–6, 2002.

Place: The Double Tree Hotel, 1750 Rockville Pike, Rockville, Maryland.

Type: Closed: September 5, 2002—9:15 a.m.—11 a.m.

Open: September 5, 2002—11:15 a.m.—5:30 p.m.

Open: September 6, 2002—9 a.m.—12:15 p.m.

Contact: Eileen S. Pensinger, M.Ed., Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 15–99, Rockville, Maryland 20857, Telephone: (301) 443–4823 and FAX (301) 443–5163.

Dated: August 12, 2002.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–21935 Filed 8–27–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Recovery Goals for Four Endangered Fishes of the Colorado River Basin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: To further the recovery of humpback chub (*Gila cypha*), bonytail (*Gila elegans*), Colorado pikeminnow (*Ptychocheilus lucius*), and razorback sucker (*Xyrauchen texanus*), we, the Fish and Wildlife Service announce the availability of recovery goals for these endangered fishes of the Colorado River Basin. This information will serve as an amendment and supplement to the respective existing recovery plans for each species. The recovery goals for each species provide objective, measurable recovery criteria for downlisting and delisting that identify levels of demographic and genetic viability needed for self-sustaining populations and site-specific management actions/tasks needed to minimize or remove threats.

SUPPLEMENTARY INFORMATION: The purpose of these recovery goals is to describe site-specific management actions/tasks; provide objective, measurable recovery criteria; and provide estimates of the time required to achieve recovery of each of the four endangered fish species. Recovery of the humpback chub, bonytail, and razorback sucker is considered in two recovery units, *i.e.*, upper basin (upstream of Glen Canyon Dam, Arizona) and lower basin. Recovery of the Colorado pikeminnow is considered only in the upper basin recovery unit. Downlisting and delisting criteria by listing factors and management actions, as well as demographic criteria, are presented for populations of each species within the recovery units. In addition, updated life-history information and estimated time to achieve the downlisting and delisting requirements are also presented. These recovery goals serve as amendments and supplements to the recovery plans by providing more specific objective and measurable criteria to recover each of the four fish species.

Draft recovery goals were made available for public comment on September 10, 2001, through a **Federal Register** Notice of Availability (66 FR 47033–47034) and on November 23, 2001, through a **Federal Register** Notice of Reopening (66 FR 58748). Comments were categorized by topic and

responded to in a separate document entitled, ''Responses to public comments on draft recovery goals for the Colorado pikeminnow, humpback chub, razorback sucker, and bonytail.''

Paper and compact disc copies of the documents will be mailed to interested parties upon request. The recovery goals are also available (in*. pdf format) for viewing and downloading *http://www.r6.fws.gov/crrip/rg.htm.* Make requests to the Director at the address below.

ADDRESSES: Mail requests to Dr. Robert Muth, Director, Upper Colorado River Endangered Fish Recovery Program, U.S. Fish and Wildlife Service, Post Office Box 25486, DFC, Denver, Colorado, 80225.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Muth, Director (extension 268), Dr. Thomas Czapla (extension 228) or Ms. Debra Felker (extension 227), Coordinators (see **ADDRESSES** above), at telephone (303) 969–7322.

Dr. Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 02–21883 Filed 8–27–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Collection of Information

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Office of Indian Education Programs is seeking comments on the renewal of two Information Collection Requests: the Tribal Colleges and Universities Annual Report Form, OMB No. 1076–0105, and the Grants Application for Community Colleges, OMB No. 1076–0018, as required by the Paperwork Reduction Act of 1995.

DATES: Submit your comments and suggestions on or before October 28, 2002.

ADDRESSES: Written comments should be sent directly to Garry R. Martin, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street NW., Washington, DC 20240–0001. You may also send comments by facsimile to 202–219–9583.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection may be obtained by contacting Garry R. Martin, 202–208–3478.

SUPPLEMENTARY INFORMATION:

Abstract

The information collections are necessary to assess the need for tribally controlled community college programs as required by 25 CFR part 41.

Request for Comments

Comments are invited on (a) whether the information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including through the use of automated collection techniques or other forms of information technology. Please note that an agency may not sponsor or request, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review during the hours of 9 a.m.–3 p.m. Monday through Friday except for legal holidays. If you wish to have your name and/or address withheld, you must state this prominently at the beginning of your comments. We will honor your request according to the requirements of the law. All comments from organizations or representatives will be available for review. We may withhold comments from review for other reasons.

Title: Grants, Tribal Colleges and Universities Annual Report Form.

OMB control number: 1076–0105.

Frequency: Annually.

Description of respondents: Tribal College and University institutions of higher learning, post-secondary educators, collegiate administrators.

Estimated completion time: 3 hours.

Number of Annual responses: 26.

Annual Burden hours: 78 hours.

Title: Grants Application for Community Colleges.

OMB approval number: 1076–0018.

Frequency: Annually.

Description of respondents: Tribal College and University institutions of higher learning, post-secondary educators, collegiate administrators.

Estimated completion time: 1 hour.

Number of Annual responses: 26.

Annual Burden hours: 26 hours.

Dated: August 23, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–21968 Filed 8–27–02; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Availability of the Final Environmental Impact Statement for the Section 14 Specific Plan on the Agua Caliente Indian Reservation, Riverside County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) intends to file a Final Environmental Impact Statement (FEIS) for the proposed Section 14 Master Development Plan on the Agua Caliente Indian Reservation located within the boundaries of the City of Palm Springs, Riverside County, California, with the U.S. Environmental Protection Agency, and that the FEIS is available for final public review. Details on the proposed action, location and areas of environmental concern addressed in the FEIS are provided below in the **SUPPLEMENTARY INFORMATION** section.

DATES: Written comments on the FEIS must arrive by September 28, 2002. The Record of Decision will be issued on or after September 30, 2002.

ADDRESSES: You may mail or hand carry written comments to Ronald Jaeger, Regional Director, Bureau of Indian Affairs, Pacific Regional Office, 2800 Cottage Way, Sacramento, California 95825–1846. Please include your name, return address and the caption, ''FEIS Comments, Section 14 Master Plan, Riverside County, California,'' on the first page of your written comments.

Copies of the FEIS have been sent to all agencies and individuals who participated in the scoping process or public hearings and to those who requested copies. To obtain a copy of the FEIS, please write or call William Allan, Environmental Protection Specialist, Pacific Region, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825–1846, telephone (916) 978–6043. Copies of the FEIS are also available in the Agua Caliente Tribal Administration Office, 650 East Tahquitz Canyon Way, Palm Springs, California 92262.

FOR FURTHER INFORMATION CONTACT: William Allan, (916) 978–6043, or

Michael Atencio, (760) 325–3400, extension 207.

SUPPLEMENTARY INFORMATION: The proposed project is the approval of the Section 14 Master Development Plan, which facilitates approval of future leases on trust land in Section 14 by the BIA. Section 14 is located on the Agua Caliente Indian Reservation in downtown Palm Springs. It is comprised of tribally owned parcels, allotted parcels and parcels owned in fee. The section is bounded by Alejo Road to the north, Sunrise Road to the east, Ramon Road to the south, and Indian Canyon Drive to the west. The 640-acre section is one block east of downtown Palm Springs and one mile west of Palm Springs Regional Airport.

The intent of the Section 14 Master Development Plan is to:

- Create an attractive, feasible and marketable vision for the area's future development;
- Achieve the highest and best use of Indian trust lands;
- Maximize and coordinate the development potential of Indian trust and fee lands in Section 14;
- Ensure compatibility with existing, proposed and planned development in the downtown area;
- Achieve a comprehensive master plan of development that is high quality, marketable and able to be implemented in a timely manner;
- Revitalize existing uses; and
- Provide a specific plan that ensures quality development will occur independent of ownership.

Businesses that are expected to be attracted and which will result in new construction include restaurants and various retail establishments. These establishments will consist of cinemas, live theaters, museums, and ''entertainment retail'' shopping where customers are entertained as they browse. There will also be health, sports and recreational complexes along with a large-scale hotel located across from the existing Convention Center.

In addition to the new development, existing structures will receive facade rehabilitation in order to blend in with the new destination resort theme of Section 14. Streets will also be redesigned and enhanced within Section 14 to promote a pedestrian-friendly, destination resort environment.

Alternative transportation modes will be established within the area to help limit the amount of automobile traffic. Walkways and bikeways will be linked into the existing street grid and the major attractions of the area. Shade features such as awnings, overhangs and trellises will be established to attract both recreational and destination oriented pedestrians and cyclists. A rubber-tire shuttle will be installed linking Section 14, the airport and downtown with stops at major hotels and attractions.

Alternatives to the proposed project that are considered in the FEIS include (1) no action, which will keep the City of Palm Springs General Plan in effect, (2) reduced intensity development; and (3) increased intensity development. Environmental issues addressed in the FEIS include landform/topography, geology/soils/seismicity, hydrology/water quality, biological resources, land use, cultural and scientific resources, air quality, traffic/circulation, noise, health and safety, public services and utilities, and visual resources.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the mailing address shown in the **ADDRESSES** section, during regular business hours, 9 a.m. to 4 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR, part 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: August 7, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–21967 Filed 8–27–02; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–01–1220–AA]

Addendum to Notice of Public Meeting, California Desert District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Addendum to notice of public meeting.

SUMMARY: This addendum amends the notice of the U.S. Department of the Interior, Bureau of Land Management (BLM) California Desert District Advisory Council (DAC) field tour and public meeting scheduled on September 13–14, 2002, at Baker, California.

The field tour scheduled on Friday, September 13, has been canceled. The Council will meet in formal session on Saturday, September 14 from 8:30 a.m to 4 p.m. at the Baker Community Center, located at 56725 Park Avenue in Baker. Scheduled agenda topics include discussions on the Final Northern and Eastern Colorado Desert Plan and Proposed Plan Amendment and the Final Northern and Eastern Mojave Plan and Proposed Plan Amendment.

All Desert District Advisory Council meetings are open to the public. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the beginning of the meeting.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507–0714. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION CONTACT: Doran Sanchez, BLM California Desert District External Affairs, at (909) 697–5220.

Dated: August 22, 2002.

Linda Hansen,

Acting District Manager.

[FR Doc. 02–21879 Filed 8–27–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Public Meeting, Alaska Resource Advisory Council

AGENCY: Bureau of Land Management, Alaska State Office, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Alaska Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held October 15–16, 2002, at the Anchorage Federal Office Building, located at 7th and C Street, beginning at 8:30 a.m. The public comment period will begin at 1 p.m. October 15.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, Alaska State Office, 222 W. 7th Avenue #13, Anchorage, AK 99513. Telephone (907) 271–3322 or e-mail *Teresa_McPherson@ak.blm.gov.*

SUPPLEMENTARY INFORMATION: The 13-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Alaska. At this meeting, topics we plan to discuss include:

- Status of planning for the National Petroleum Reserve Alaska (NPR–A)
- Status of planning for the Colville River Special Area
- Status of state selections in the Denali Block
- Other topics the Council may raise

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allotted for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact BLM.

Dated: August 21, 2002.

Henri R. Bisson,

State Director.

[FR Doc. 02–21880 Filed 8–27–02; 8:45 am]

BILLING CODE 4310–JA–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Meeting of the Yakima River Basin Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, WA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: As required by the Federal Advisory Committee Act, notice is hereby given that the Yakima River Basin Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, Washington, established by the Secretary of the Interior, will hold a public meeting. The purpose of the Conservation Advisory Group is to provide technical advice and counsel to the Secretary and the State on the structure, implementation, and oversight of the Yakima River Basin Water Conservation Program.

DATES: Thursday, September 26, 2002, 10 a.m.–1 p.m.

ADDRESSES: Bureau of Reclamation Office, 1917 Marsh Road, Yakima, Washington.

FOR FURTHER INFORMATION CONTACT: James Esget, Manager, Yakima River Basin Water Enhancement Project, 1917 Marsh Road, Yakima, Washington 98901; (509) 575–5848, extension 267.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to review water marketing opportunities in the Yakima River Basin and develop recommendations. This meeting is open to the public.

Dated: August 22, 2002.

James A. Esget,

Program Manager.

[FR Doc. 02–21881 Filed 8–27–02; 8:45 am]

BILLING CODE 4310–MN–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–422–425 and 731–TA–964–983 (Final)]

Certain Cold-Rolled Steel Products From Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Reopening of the record.

EFFECTIVE DATE: August 22, 2002.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179/ *ffischer@usitc.gov*), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server *(http://www.usitc.gov).* The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: On August 22, 2002, the Department of Commerce announced the final set of products to be excluded from the safeguard measure on steel products. The Commission is reopening the record in the subject investigations for the sole purpose of accepting the final list of safeguard exclusions and imports thereof. Parties may comment on this list of exclusions in a submission not to exceed five pages in length that must be filed by no later than 2 p.m. on Monday, August 26, 2002, pursuant to Commission rule 207.30.

For further information concerning these investigations see the Commission's notice cited above and the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: August 23, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–21930 Filed 8–27–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–445]

Conditions of Competition in the U.S. Market for Wood Structural Building Components

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: August 19, 2002.

SUMMARY: Following receipt of the request on July 31, 2002, from the Senate Committee on Finance, the Commission instituted investigation No. 332–445 Conditions of Competition in the U.S. Market for Wood Structural Building Components, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

As requested by the Committee, the Commission will conduct an investigation and provide a report on competitive conditions in the U.S. market for structural building components. In its report the Commission will provide, to the extent possible, the following:

1. An overview of the North American market for prefabricated wood structural building components (including a description of the principal structural wood components in production and trade, and their non-wood substitutes);

2. A description of the U.S. industry, and the industry in the principal countries supplying the U.S. market, including recent trends in production, capacity, employment, and consumption;

3. Trade patterns (both imports and exports), factors affecting trade patterns (including tariffs and other border measures), and competitive conditions affecting U.S. production and trade;

4. Views of industry, homebuilders, and other interested parties on future developments in the supply of and the demand for U.S. wood structural building components, including the effect of imports (including factors affecting imports such as tariffs and other border measures) and non-wood substitutes on U.S. production and housing construction; and

5. A comparison of the strengths and weaknesses of the U.S. industry and major U.S. suppliers in such areas as raw material supply, technological capabilities, plant and equipment modernization, and present capacity and potential capacity expansion.

As requested by the Committee, the Commission's report will cover structural building components including, but not limited to, beams and arches, roof and floor trusses, I-joists, prefabricated partitions and panels (including headers) for buildings and other structural wood members, and cover the period 1997–2002 to the extent possible. As requested, the Commission will transmit its report to the Committee by April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Industry-specific information may be obtained from Alfred Forstall, Project Leader (202–205–3443 or *AForstall@usitc.gov*) or Vincent Honnold, Deputy Project Leader (202–205–3314 or *VHonnold@usitc.gov*), Office of Industries, U.S. International Trade Commission, Washington, DC 20436. For information on legal aspects of this investigation, contact William Gearhart of the Office of General Counsel (202–205–3091or *wgearhart@usitc.gov*). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Public Hearing: A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC beginning at 9:30 a.m. on December 5, 2002. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, no later than 5:15 p.m., November 21, 2002. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., November 25, 2002; the deadline for filing post-hearing briefs or statements is 5:15 p.m., December 19, 2002. In the event that, as of the close of business on November 21, 2002, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary (202–205–1806) after November 21, 2002, to determine whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements (original and 14 copies) concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be provided on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. The Senate Committee on Finance has requested that the Commission prepare a public report (containing no confidential business information). Accordingly, any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in a manner that would reveal the operations of the firm supplying the information. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on December 19, 2002. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server *(http://www.usitc.gov).*

List of Subjects

Wood structural building components, tariffs, and imports.

Issued: August 23, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–21929 Filed 8–27–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-day Notice of Information Collection Under Review: New collection; Prescription Monitoring Program Questionnaire.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA) 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. Comments are encouraged and will be accepted until October 28, 2002. This process is

conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, need a copy of the proposed information collection instrument with instructions or need additional information, please contact Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions are requested from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

Overview of this information collection:

(1) *Type of information collection:* New collection.

(2) *The title of the form/collection:* Prescription Monitoring Program Questionnaire.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form No.: None.

Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State agencies.

Other: None.

Abstract: This questionnaire permits the Drug Enforcement Administration to compile and evaluate information regarding the design, implementation and operation of state prescription monitoring programs. Such information allows DEA to assist states in the development of new programs designed to enhance the ability to both DEA and state authorities to prevent, detect, and investigate the diversion and abuse of controlled substances.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 25 respondents. 1 response per year × 5 hours per response = 125 annual burden hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 125 annual burden hours. 25 respondents × 5 hours per respondent per year.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: August 22, 2002.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 02–21824 Filed 8–27–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: 60-day notice of information collection under review; HRIFA Supplement to Form I-485 Instructions, Form I485C.

The Department of Justice, Immigration and Naturalization Service (INS) is in the process of submitting the following information collection request for review and clearance to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 28, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of this information collection:

(1) *Type of Information Collection: Extension of a currently approved information collection.*

(2) *Title of the Form/Collection:* HRIFA Supplement to Form I485 Instructions.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I485C. Office of Programs, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information collected on this application will be used to determine whether an alien applying for adjustment of status under the provisions of section 902 of Division A, Title IX of Public Law 105277 is eligible to become a permanent resident of the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50,000 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 12,500 annual burden hours.

If you have comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, (202) 5143291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of

Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: August 20, 2002.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–21838 Filed 8–27–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-day notice of information collection under review; Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 28, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of this information collection:

(1) *Type of Information Collection: Extension of a currently approved collection.*

(2) *Title of the Form/Collection:* Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number (File No. OMB–19). Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. This Service will use the data collected by the carrier to query the Interagency Border Inspection System (IBIS) to electronically access manifest and query results in advance of each flight's arrival. This information collection facilitates rapid inspection at ports-of-entry.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 400 carrier agreements at 5 hours per response and 1,500,000 queries at 1 minute (0.016 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 26,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: August 21, 2002.

Richard A. Sloan,

Director, Department Clearance Officer, Department of Justice, Immigration and Naturalization Services.

[FR Doc. 02–21839 Filed 8–27–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-day notice of information collection under review; Certificate of Satisfactory Pursuit, Form I–69.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 28, 2002.

Written comments and suggestion from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques 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) *Title of the Form/Collection:* Certificate of Satisfactory Pursuit.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–699. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The Services uses this form to verify that a certified course provider

has supplied the required instructions to temporary resident aliens, in compliance with Public Law 99–603 and Public Law 100–204, section 902.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at 10 minutes (0.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 16,600 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: August 30, 2002.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–21840 Filed 8–27–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: Notice of Naturalization Oath Ceremony; Form N–445.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on April 23, 2002 at 67 FR 19775, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 27, 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 the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725–17th Street, NW., Room 10235, Washington, DC 20503.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of this information collection:

(1) *Type of Information Collection: Extension of currently approved collection.*

(2) *Title of the Form/Collection:* Notice of Naturalization Oath Ceremony.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–445, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. The information furnished on this form refers to events that may have occurred since the applicant's initial interview and prior to the administration of the oath of allegiance. Several months may elapse between these dates and the information that is provided assists the officer to make and render an appropriate decision on the application.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 650,000 responses at approximately 5 minutes (.083) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 53,950 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3191, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: August 21, 2002.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–21841 Filed 8–27–02; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of three currently approved information collections. The first information collection is used to advise requesters of (1) the correct procedures to follow when requesting certified copies of records for use in civil litigation or criminal actions in courts of

law, and (2) the information to be provided so that records may be identified. The second information collection is used when veterans, dependents, and other authorized individuals request information from or copies of documents in military personnel, military medical, and dependent medical records. The third information collection is a survey of Customer Satisfaction at the National Personnel Records Center (Military Personnel Records [MPR] facility) of the National Archives and Records Administration. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before October 28, 2002 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–837–3213; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collections:

1. *Title:* Court Order Requirements.

OMB number: 3095–0038.

Agency form number: NA Form 13027.

Type of review: Regular.

Affected public: Veterans and Former Federal civilian employees, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 5,000.

Estimated time per response: 15 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 1,250 hours.

Abstract: The information collection is prescribed by 36 CFR 1228.164. In accordance with rules issued by the Office of Personnel Management, the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers Official Personnel Folders (OPF) and Employee Medical Folders (EMF) of former Federal civilian employees. In accordance with rules issued by the Department of Defense (DOD) and the Department of Transportation (DOT), the NPRC also administers military service records of veterans after discharge, retirement, and death, and the medical records of these veterans, current members of the Armed Forces, and dependents of Armed Forces personnel. The NA Form 13027, Court Order Requirements, is used to advise requesters of (1) the correct procedures to follow when requesting certified copies of records for use in civil litigation or criminal actions in courts of law and (2) the information to be provided so that records may be identified.

2. *Title:* Authorization for Release of Military Medical Patient Records, Request for Information Needed to Locate Medical Records, Request for Information Needed to Reconstruct Medical Data, and Questionnaire about Military Service.

OMB number: 3095–0039.

Agency form number: NA Forms 13036, 13042, 13055, and 13075.

Type of review: Regular.

Affected public: Veterans, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 79,800.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when respondent wishes to request information from a military personnel, military medical, and dependent medical record).

Estimated total annual burden hours: 6,650 hours.

Abstract: The information collection is prescribed by 36 CFR 1228.164. In accordance with rules issued by the Department of Defense (DOD) and the Department of Transportation (DOT, U.S. Coast Guard), the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers military personnel and medical records of veterans after discharge, retirement, and death. In addition, NRPC administers the medical records of dependents of service personnel. When veterans, dependents, and other authorized individuals request information from or copies of documents in military personnel, military medical, and dependent medical records, they must provide on forms or in letters certain information about the veteran and the nature of the request. A major fire at the NPRC on July 12, 1973, destroyed numerous military records. If individuals' requests involve records or information from records that may have been lost in the fire, requesters may be asked to complete NA Form 13075, Questionnaire about Military Service, or NA Form 13055, Request for Information Needed to Reconstruct Medical Data, so that NPRC staff can search alternative sources to reconstruct the requested information. Requesters who ask for medical records of dependents of service personnel and hospitalization records of military personnel are asked to complete NA Form 13042, Request for Information Needed to Locate Medical Records, so that NPRC staff can locate the desired records. Certain types of information contained in military personnel and medical records are restricted from disclosure unless the veteran provides a more specific release authorization than is normally required. Veterans are asked to complete NA Form 13036, Authorization for Release of Military Medical Patient Records, to authorize release to a third party of a restricted type of information found in the desired record.

3. *Title:* National Personnel Records Center (NPRC) Survey of Customer Satisfaction

OMB number: 3095–0042.

Agency form number: N/A.

Type of review: Regular.

Affected public: Federal, state and local government agencies, veterans, and individuals who write the Military Personnel Records (MPR) facility for information from or copies of official military personnel files.

Estimated number of respondents: 4,960.

Estimated time per response: 10 minutes.

Frequency of response: On occasion (when respondent writes to MPR

requesting information from official military personnel files).

Estimated total annual burden hours: 827 hours.

Abstract: The information collection is prescribed by EO 12862 issued September 11, 1993, which requires Federal agencies to survey their customers concerning customer service. The general purpose of this data collection is to initially support the business process reengineering (BPR) of the MPR reference service process and then provide MPR management with an ongoing mechanism for monitoring customer satisfaction. In particular, the purpose of the National Personnel Records Center (NPRC) Survey of Customer Satisfaction is to (1) provide baseline data concerning customer satisfaction with MPR's reference service process, (2) identify areas within the reference service process for improvement, and (3) provide MPR management with customer feedback on the effectiveness of BPR initiatives designed to improve customer service as they are implemented. In addition to supporting the BPR effort, the National Personnel Records Center (NPRC) Survey of Customer Satisfaction will help NARA in responding to performance planning and reporting requirements contained in the Government Performance and Results Act (GPRA).

Dated: August 21, 2002.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 02–21896 Filed 8–27–02; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND PLACE: 9:30 a.m., Wednesday, September 4, 2002.

PLACE: NTSB Conference Center, 4291 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The two items are Open to the Public.

MATTERS TO BE CONSIDERED:

7488 Railroad Special Investigation Report—Two Rear-End Collisions Involving Chicago Transit Authority Rapid Transit Trains at Chicago, Illinois, on June 17 and August 3, 2001.

7409 Highway Accident Report—Collision Between Truck-Tractor Semitrailer and School Bus near Mountainburg, Arkansas, on May 31, 2001.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Ms. Carolyn Dargan at (202) 314–6305 by Friday, August 30, 2002.

FOR MORE INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: August 23, 2002.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 02–21966 Filed 8–26–02; 10:50 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Proposed Rule—10 CFR Part 40—Amendments to Require NRC Approval for Transfers of Certain Source Materials by Specific Licensees

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* Licensees desiring to transfer quantities of less than 0.05 percent source material to exempt persons under 10 CFR 40.13(a).

6. *An estimate of the number of responses:* 7 per year.

7. *The estimated number of annual respondents:* 5.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 300 hours (250 hours for initial transfer requests and 50 hours for additional information if requested by NRC).

9. *An indication of whether section 3507(d), Pub. L. 104–13 applies:* Applicable.

10. *Abstract:* The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require NRC approval for transfers from licensees of quantities of source material that is less than 0.05 percent by weight to persons exempt from licensing requirements under § 40.13(a). The object of this proposed action is to ensure that the regulations regarding transfers of materials containing low concentrations of source material are adequate to protect public health and safety.

Submit by September 27, 2002, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collected be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. The proposed rule indicated in ''The title of the information collection'' is or has been published in the **Federal Register** within several days of the publication date of this **Federal Register** Notice. The OMB clearance package and rule are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 60 days after the signature date of this notice and are also available at the rule forum site, *http://ruleforum.IInI.gov*.

Comments and questions should be directed to the OMB reviewer by September 27, 2002: Bryon Allen, Office of Information and Regulatory Affairs (3150–0020), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 13th day of August 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–21885 Filed 8–27–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Issuance of Draft NUREG for Public Comment

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance of Draft NUREG for public comment.

SUMMARY: The Nuclear Regulatory Commission is issuing Draft NUREG–1761 ''Radiological Surveys for Controlling Release of Solid Materials'' for public comment for a 90-day period. Copies of the Draft NUREG report can be obtained through the NRC homepage address: *http:///www.nrc.gov/reading-rm/doc-collections/nuregs/staff/*.

FOR FURTHER INFORMATION CONTACT: George E. Powers; e-mail: *gep@nrc.gov* telephone: (301) 415–6212; Office of Nuclear Regulatory Research, Mail Stop T–9F31, USNRC, Washington DC 20555–0001.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) has issued Draft NUREG–1761 ''Radiological Surveys for Controlling Release of Solid Materials'' for a 90-day public comment period. The report was prepared by the NRC technical staff with input from the Oak Ridge Institute for Science and Education (ORISE), staff of the U.S. Department of Energy, the Environmental Measurements Laboratory (EML), and Oak Ridge National Laboratory (ORNL). The NRC staff is developing a technical basis to support decisions on the control of slightly contaminated solid materials. Specifically, the solid materials being evaluated include metals, building concrete, onsite soils, equipment, furniture, and other solid materials, which are present at, and/or used in, licensed nuclear facilities during routine operations. This draft report provides information about measuring residual radioactivity in materials that are to be cleared from nuclear facilities, including guidance about designing, performing, and documenting radiological surveys of solid materials (including characterization practices and measurement protocols).

Information received through the public comment process will be considered in revising NUREG–1761 before publication in final form. Specifically, the NRC staff is seeking information through comments on the Draft NUREG regarding the optimization of surveys through the use of standard and advanced instrumentation and analytical methods.

Information on the Draft NUREG for public comment can be accessed using the following NRC homepage address: *http:///www.nrc.gov/reading-rm/doc-collections/nuregs/staff/* or by notifying the NRC staff contact, George E. Powers.

Dated at Rockville, Maryland, this 21st day of August 2002.

For the Nuclear Regulatory Commission.

William R. Ott,

Acting Chief, Radiation Protection, Environmental Risk and Waste Management Branch, Division of Risk Assessment and Applications, Office of Nuclear Regulatory Research.

[FR Doc. 02–21884 Filed 8–27–02; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Railroad Retirement Account; Notice of Public Meeting

The meeting of the Actuarial Advisory Committee which was to be held on August 23, 2002, at 10 a.m. at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, has been canceled.

The person to contact for more information is Isaiah Forrest, Senior Actuary, at (312) 751–4739.

Dated: August 22, 2002.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 02–21875 Filed 8–27–02; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration on the Chicago Stock Exchange, Inc. (Meritage Hospitality Group, Inc., Common Stock, $.01 par value) File No. 1–12319

August 22, 2002.

Meritage Hospitality Group, Inc., a Michigan corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.01 par value (''Security''), from listing and registration on the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'').

The Issuer states in its application that it has met the requirements of the CHX Article XXVIII, Rule 4, by complying with Exchange's rules governing an issuer's voluntary withdrawal of a security from listing and registration. In making the decision to withdraw the Security from listing and registration on the CHX, the Issuer states that the Security has traded on the American Stock Exchange (''Amex'') since 1999. The Company also states that based on its most recent Form 10–Q filing, the total number of outstanding shares of its Security is 5,328,385.

The Issuer's application relates solely to the withdrawal of the Security from listing and registration on the CHX and shall have no affect upon the Security's continued listing and registration on the Amex under section 12(b) of the Act.[3]

Any interested person may, on or before September 16, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the CHX and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–21952 Filed 8–27–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25715; File No. 812–12632]

Phoenix Life Insurance Company, et al.; Notice of Application

August 21, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to section 26(c) of the Investment Company Act of 1940, as amended (''1940 Act'') approving certain substitutions of securities, and pursuant to section 17(b) of the 1940 Act exempting related transactions from section 17(a) of the 1940 Act.

APPLICANTS: Phoenix Life Insurance Company (''Phoenix'') and PHL Variable

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

Insurance Company (''PHL Variable'') (together, the ''Phoenix Insurance Companies''), and Phoenix Life Variable Accumulation Account (''Phoenix VA Account''), Phoenix Life Variable Universal Life Account (''Phoenix VUL Account''), and PHL Variable Accumulation Account (''PHL VA Account'') (collectively, the ''Separate Accounts'' and, with the Phoenix Insurance Companies, the ''Applicants'').

SUMMARY OF THE APPLICATION: Applicants request an order to permit the substitution of securities issued by the Federated Fund for U.S. Government Securities II (''Federated Fund''), a portfolio of Federated Insurance Series (''Federated Trust''), for securities issued by the Phoenix-Federated U.S. Government Bond Series (''Phoenix-Federated Fund''), a series of The Phoenix Edge Series Fund (''Phoenix Trust''), held by the Separate Accounts, and to permit certain in-kind redemptions and purchases in connection with the substitution (''In-Kind Transaction'').

FILING DATE: The application was filed on September 14, 2001 and was amended and restated on August 15, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on September 16, 2002 and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of the hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o Ruth S. Epstein, *Esq.,* Dechert, 1775 Eye Street, NW., Washington, DC 20006–2401.

FOR FURTHER INFORMATION CONTACT: H. Yuna Peng, Attorney, at (202) 942–0676, or William J. Kotapish, Assistant Director, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Phoenix is a life insurance company originally chartered in Connecticut in 1851 and redomiciled to New York in 1992. Phoenix sells life insurance policies and variable annuity contracts and variable life insurance policies through its own field force of agents and through brokers.

2. PHL Variable is an indirect wholly-owned subsidiary of Phoenix. PHL Variable is a Connecticut stock company formed on April 24, 1981. PHL Variable sells variable annuity contracts through its own field force of agents and through brokers.

3. The Phoenix VA Account and the Phoenix VUL Account are separate accounts of Phoenix created on June 21, 1982 and June 17, 1985, respectively. The PHL VA Account is a separate account of PHL Variable created on December 7, 1994. The Separate Accounts own virtually all of the issued and outstanding shares of the Phoenix-Federated Fund.

4. The Separate Accounts are segregated asset accounts of the Phoenix Insurance Companies. Each Separate Account is registered with the Commission as a unit investment trust under the 1940 Act. The Separate Accounts fund the respective variable benefits available under the variable annuity contracts and variable life insurance policies (the ''Contracts'') issued by the Phoenix Insurance Companies. Each of the Separate Accounts is divided into subaccounts, which invest in shares of mutual funds, or series thereof, corresponding to the investment designation of the respective subaccount. Units of interest in the Separate Accounts under the Contracts are registered under the Securities Act of 1933, as amended (''1933 Act'').

5. The Contracts offer a range of investment options, which include all series of the Phoenix Trust and series of other variable insurance products funds that are managed by unaffiliated advisers, including the Federated Fund. Contract owners or participants may allocate contributions or premium payments among these variable options and any fixed investment options available under the Contract. Contributions or premium payments allocated to variable funding options are held in corresponding subaccounts of the appropriate Separate Accounts.

6. The Phoenix Trust is an open-end management investment company of the series type registered under the 1940 Act (File No. 811–04642) and its shares are registered under the 1933 Act on Form N–1A (File No. 033–05033). The Phoenix Trust currently has twenty-seven separate series (nine new series are in the process of being organized). The Phoenix Trust is a variable insurance products fund that currently offers its shares exclusively to the Separate Accounts, although the Phoenix Trust may in the future offer its shares to other insurance company separate accounts and qualified retirement or pension plans.

7. Phoenix Variable Advisors, Inc. (''PVA'') currently is the investment adviser to fifteen series of the Phoenix Trust. PVA is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''). PVA is an indirect wholly-owned subsidiary of Phoenix.

8. The Phoenix-Federated Fund is a series of the Phoenix Trust. The Phoenix-Federated Fund invests primarily in debt obligations of the U.S. government, its agencies and instrumentalities, including mortgage-backed securities. Its investment adviser is PVA, which has retained Federated Investment Management Company (''Federated'') as subadviser. In that capacity, Federated performs all day-to-day portfolio management of the Phoenix-Federated Fund. Federated, a Delaware business trust with principal offices at 1001 Liberty Avenue, Pittsburgh, Pennsylvania, is a wholly-owned subsidiary of Federated Investors, Inc., and is not an affiliated person of PVA, the Phoenix Insurance Companies, or the Separate Accounts within the meaning of section 2(a)(3) of the 1940 Act.

9. The Phoenix-Federated Fund is available only through Phoenix-Federated Fund subaccounts offered under the Contracts. As of February 16, 2001, the Phoenix-Federated Fund subaccounts are not available for allocations of Contract value, either by premium payment or transfer of account value, except by Contract owners who, at or prior to that time, had Contract value allocated to the Phoenix-Federated Fund subaccounts.

10. The Federated Trust is an open-end management investment company of the series type registered under the 1940 Act (File No. 811–08042) and its shares are registered under the 1933 Act on Form N–1A (File No. 033–69268). The Federated Trust currently has thirteen series. The Federated Trust is a variable insurance products fund whose shares are available exclusively to separate accounts of insurance companies writing variable life

insurance policies and variable annuity contracts, including the Separate Accounts. Under Fund Participation Agreements between the Phoenix Insurance Companies, Federated Trust, and Federated Trust's distributor (the ''distributor''), the distributor pays the Phoenix Insurance Companies a fee for administrative services provided by the Phoenix Insurance Companies to their Contract owners. The amount of the fee is computed at an annual rate of 0.25% of the average daily net asset value of shares held in subaccounts for which the respective Phoenix Insurance Company provides administrative services. The distributor's payments to the Phoenix Insurance Companies are for administrative services only and do not constitute payment in any manner for investment advisory services. The Federated Trust changed its name from Insurance Management Series to Federated Insurance Series on November 14, 1995.

11. The Federated Fund is a series of the Federated Trust. Like the Phoenix-Federated Fund, the Federated Fund invests primarily in U.S. Government securities, including mortgage-backed securities issued by U.S. government agencies. Federated, as its investment adviser, provides day-to-day portfolio management for the Federated Fund.

12. The Federated Fund is not affiliated with the Phoenix Insurance Companies except as the Separate Accounts may be deemed affiliates of the Federated Fund by virtue of their ownership of shares of the Federated Fund.

13. Applicants propose to substitute shares of the Federated Fund for shares of the Phoenix-Federated Fund (the ''Substitution''). Although the investment objectives for the Phoenix-Federated Fund and the Federated Fund are stated differently, the two Funds have substantially similar investment strategies and anticipated risks, as described in the table below.

	Removed fund: Phoenix-Federated fund	Substituted fund: Federated fund
Investment Objective	Total return, by investing primarily in debt obligations of the U.S. government, its agencies and instrumentalities.	Current income, by investing primarily in a diversified portfolio of U.S. government securities.
Principal Investment Strategies.	Under normal circumstances, the Phoenix-Federated Fund will invest at least 80% of its total assets in debt obligations of the U.S. government, its agencies and instrumentalities, including mortgage-backed securities.	The Federated Fund invests primarily in U.S. government securities, including mortgage-backed securities issued by U.S. government agencies.
Principal Risks	• Interest Rate Risk • Prepayment Risk • Credit Risk	• Interest Rate Risk. • Prepayment Risk. • Credit Risk. • Liquidity Risk.

14. Federated provides the day-to-day portfolio management for both the Phoenix-Federated Fund and the Federated Fund, as investment adviser to the Federated Fund and subadviser to the Phoenix-Federated Fund.

15. The Federated Fund has lower overall expenses than the Phoenix-Federated Fund. The chart below shows the investment advisory fees, other expenses and total expenses of the Phoenix-Federated Fund and the Federated Fund for the year ending December 31, 2001, expressed as a percentage of average daily net assets.

	Removed fund: Phoenix-Federated Fund in 2001 (in percent)	Substituted fund: Federated Fund 2001 (in percent)
Advisory Fee	0.60	0.60
Shareholder Services Fee	N/A	0.25
Other Expenses	0.86	0.14
Total Expenses	1.46	0.99
Total Expenses of Waivers and Reimbursements	0.90	0.74

16. The Federated Fund is substantially larger than the Phoenix-Federated Fund. As of December 31, 2001, the net assets of the Federated Fund were approximately $300.4 million, while the net assets of the Phoenix-Federated Fund were approximately $15.1 million.

17. The Phoenix-Federated Fund and the Federated Fund each pays an investment advisory fee equal, on an annual basis, to 0.60% of the fund's average daily net assets. Under its subadvisory agreement with Federated, PVA pays Federated a subadvisory fee in the amount of 0.30% of the Phoenix-Federated Fund's average daily net assets up to $25 million, 0.25% on the next $25 million, and 0.20% on the next $50 million. The fee is negotiable on amounts over $100 million.

18. Under the terms of a shareholder services agreement between the Federated Fund and Federated Shareholder Services, an affiliate of Federated, the Federated Fund may pay a fee in an amount up to 0.25% of its average annual net assets to Federated Shareholder Services for providing certain shareholder services. The Federated Fund did not pay or accrue the shareholder services fee during the year ending December 31, 2001. The Federated Fund has no present intention of paying or accruing the shareholder services fee during the year ending December 31, 2002.

19. Total expenses net of waivers and reimbursements have been restated to reflect the effect of current reimbursement arrangements as if they had been in effect during all of 2001. PVA currently reimburses the Phoenix-Federated Fund expenses, other than advisory fees, to the extent such expenses exceeded, on an annual basis, 0.30% of the Fund's total average daily net assets. This arrangement has been in

effect since May 1, 2002, and may be discontinued at any time. During 2001, the Phoenix-Federated Fund's total expenses net of waivers and reimbursements were 0.82% of the Phoenix-Federated Fund's total average daily net assets, based on reimbursement arrangements in place at various times during the year.

20. The table below shows the one, five, and ten year performance for each of the Funds, in addition to the lifetime performance, through December 31, 2001:

	One year (in percent)	Five years (in percent)	Ten years	Life of fund (in percent)
Phoenix-Federated Fund	5.01	N/A	N/A	10.59 (Dec. 15, 1999).
Federated Fund	7.03	6.66	N/A	6.28 (Mar. 28, 1994).

21. Applicants state that each of the Contracts reserves to Applicants the right, subject to compliance with applicable law, to substitute shares of another fund for shares of the Phoenix-Federated Fund held by the Separate Accounts. The prospectuses describing the Contracts contain disclosure of this right.

22. Applicants have provided their respective Contract owners and participants with disclosure of the proposed Substitution through prospectuses or prospectus supplements, as appropriate. Applicants will send Contract owners and participants confirmation of the Substitution within five days after the Substitution is effected.

23. Applicants state that, as described above, the two Funds have substantially similar investment strategies and their day-to-day portfolio management is performed by Federated, within the same investment group. For these reasons, the two Funds effectively represent duplicative options under the Contracts. This duplication presents an unnecessary source of complexity and possible confusion for Contract owners deciding how to allocate account value under the Contracts.

24. Moreover, Applicants state that the Phoenix-Federated Fund, which commenced operations in December 1999, has not proved to be a popular investment option under the Contracts and has never grown to a viable size. As of December 31, 2001, the Phoenix-Federated Fund had only approximately $15.1 million in assets, of which approximately $6.0 million represents the value of the initial seed money. As a consequence of its small size, the gross expenses of the Phoenix-Federated Fund remain high, in the range of 1.46% of average net assets. While the Phoenix-Federated Fund's adviser currently waives or reimburses a significant portion of these expenses, it is under no obligation to continue to do so. Finally, since the Contracts no longer offer the Phoenix-Federated Fund as an investment option to Contract owners who have not previously allocated account value to it, there is no reasonable likelihood that the Phoenix-Federated Fund will grow appreciably in the future.

25. Applicants assert that the Substitution is proposed to eliminate the above-described duplication by consolidating the assets of the Phoenix-Federated Fund into the larger Federated Fund. With this goal in mind, Applicants believe that the Substitution will: (i) Facilitate Contract owner understanding of the underlying investment options for the Contracts and reduce the potential for Contract owners to be confused by two separate underlying investment options that invest in similar types of securities (*i.e.*, securities issued or guaranteed by the United States government, its agencies or instrumentalities); and (ii) provide Contract owners who have their Contract values currently allocated to the Phoenix-Federated Fund with an investment in a larger fund that permits greater efficiency and diversification in its portfolio holdings, benefits from economies of scale, and has lower overall expenses.

26. The Phoenix Insurance Companies and PVA will not receive for three years from the date of the Substitution any direct or indirect benefit from the Federated Fund, its adviser or underwriter, or from affiliates of the Federated Fund, its adviser or underwriter, in connection with assets attributable to Contracts affected by the Substitution, at a higher rate than the Phoenix Insurance Companies or PVA were contractually entitled to receive from the Phoenix Federated Fund, its adviser or underwriter, or from any of their affiliates, including without limitation, Rule 12b–1 fees, shareholder service or administrative or other service fees, revenue sharing or other arrangements. The Phoenix Insurance Companies represent that the Substitution and their selection of the Federated Fund is not motivated by any financial consideration paid to or to be paid to the Phoenix Insurance Companies or any of their affiliates by the Federated Fund, its adviser or underwriter, or by the affiliates of the Federated Fund, its adviser or underwriter.

27. Applicants assert that the proposed Substitution is designed to provide Contract owners and participants with an opportunity to continue their investment in a similar investment option without interruption and without any cost to them. In this regard, the Phoenix Insurance Companies will be responsible for expenses incurred in connection with the Substitution and related filings and notices, including legal, accounting and other fees and expenses. On the effective date of the Substitution, the amount of any Contract owner's or participant's Contract value or the dollar value of a Contract owner's or participant's investment in the relevant Contract will not change as a result of the Substitution.

28. Applicants state that they have filed with the Commission and have sent to all existing and new Contract owners and participants prospectuses or supplements to prospectuses containing a description of the proposed Substitution (the ''Notice''). The Notice disclosed the impact of the Substitution on fees and expenses at the underlying fund level. The Notice informed affected Contract owners and participants (*i.e.*, those Contract owners or participants who have Contract value allocated to the Phoenix-Federated Fund subaccount) that they will have the opportunity to reallocate Contract value:

a. prior to the Substitution, from the Phoenix-Federated Fund subaccount; or

b. for thirty days after the Substitution, from the Federated Fund subaccount to other subaccounts available under the respective Contracts without the imposition of any transfer charge or limitation and without diminishing the number of free transfers that may be made in a given contract year. Existing Contract owners and participants who have not previously received a prospectus for the Federated Fund, and new Contract owners and participants, have been or will be sent a prospectus for the Federated Fund.

29. Applicants state that confirmation of the Substitution (the ''Confirmation'')

will be mailed to affected Contract owners and participants within five days after the Substitution is effected (the ''Substitution Date''). The Confirmation will disclose: (i) That the Substitution was carried out; and (ii) that affected Contract owners and participants will have the opportunity to reallocate Contract value for thirty days after the Substitution from the Federated Fund subaccount to other subaccounts available under the respective Contracts without the imposition of any transfer charge or limitation and without diminishing the number of free transfers that may be made in a given contract year.

30. Applicants state that it is expected that the Substitution will be effected by redeeming the shares of the Phoenix-Federated Fund in kind on the Substitution Date at their net asset value. Those assets will then be contributed in kind to the Federated Fund to purchase its shares at their net asset value on the same date.

31. In-kind redemptions and contributions will be done in a manner consistent with the investment objectives, policies and diversification requirements of the Federated Fund and the Phoenix-Federated Fund. All assets subject to in-kind redemption and purchase will be valued based on the normal valuation procedures of the Federated Fund and the Phoenix-Federated Fund, as set forth in the registration statements for the Federated Trust and the Phoenix Trust. To the extent that any shares are redeemed otherwise than in kind, the Phoenix Insurance Companies will assume any related brokerage costs.

32. Applicants assert that the significant terms of the Substitution described above include:

a. The Federated Fund will have investment objectives, investment strategies and anticipated risks that are compatible with or similar to those of the Phoenix-Federated Fund.

b. The fees and expenses of the Federated Fund are lower than those of the Phoenix-Federated Fund.

c. To the extent that any shares are redeemed otherwise than in kind, the Phoenix Insurance Companies will be responsible for brokerage costs incurred in connection with those redemptions.

d. Affected Contract owners and participants may, prior to the Substitution, transfer assets from the Phoenix-Federated Fund subaccount to another subaccount available under their Contract and, for thirty days after the Substitution, transfer assets from the Federated Fund subaccount to another subaccount available under their Contract without the imposition of any transfer charge or limitation and without diminishing the number of free transfers that may be made in a given contract year.

e. The Substitution will be effected at the relative net asset value of the respective shares of the Phoenix-Federated Fund and the Federated Fund in conformity with section 22(c) of the 1940 Act and Rule 22c–1 thereunder, without the imposition of any transfer or similar charge by Applicants, and with no change in the amount of any Contract owner's or participant's Contract value or in the dollar value of any Contract owner's or participant's investment in such Contract.

f. Contract owners and participants will not incur any fees or charges as a result of the proposed Substitution, nor will their rights or the Phoenix Insurance Companies' obligations under the Contracts be altered in any way. The Phoenix Insurance Companies will be responsible for expenses incurred in connection with the proposed Substitution and related filings and notices, including legal, accounting and other fees and expenses. The proposed Substitution will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed Substitution than before the proposed Substitution.

g. Redemptions in kind and contributions in kind will be done in a manner consistent with the investment objectives, policies and diversification requirements of the Phoenix-Federated Fund and the Federated Fund. Consistent with Rule 17a–7(d) under the 1940 Act, no brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid in connection with the In-Kind Transaction.

h. The Substitution will not be counted as a new investment selection in determining the limit, if any, on the total number of investment options that Contract owners and participants can select during the life of a Contract.

i. Applicants do not believe that the Substitution will have adverse tax consequences to Contract owners and the Substitution will not alter in any way the annuity or life benefits, tax benefits or any contractual obligations of Applicants.

j. Contract owners and participants may withdraw amounts under the Contracts or terminate their interest in a Contract, under the conditions that currently exist, including payment of any applicable withdrawal or surrender charge.

k. Contract owners and participants affected by the Substitution will be sent written confirmation of the Substitution that identify the substitutions made on behalf of that Contract owner or participant within five (5) days following the Substitution Date.

33. Applicants state that they will not complete the Substitution unless all of the following conditions are met:

a. The Commission shall have issued an order approving the Substitution under section 26(c) of the 1940 Act.

b. The Commission shall have issued an order exempting the In-Kind Transaction from the provisions of section 17(a) of the 1940 Act, to the extent necessary to carry out the Substitution as described herein.

c. Each Contract owner or participant will have been mailed the Notice and current prospectuses for the Contracts and the Federated Fund.

d. Applicants will have satisfied themselves, based on advice of counsel familiar with insurance laws, that the Contracts allow the substitution of funds as described in this application, and that the transactions can be consummated as described herein under applicable insurance laws and under the various Contracts.

e. Applicants will have complied with any regulatory requirements they believe are necessary to complete the transactions in each jurisdiction where the Contracts are qualified for sale.

Applicants' Legal Analysis

1. Section 26(c) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution; and the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants submit that the Contracts reserve to Applicants the right, subject to compliance with applicable law, to substitute shares of the Federated Fund for shares of the Phoenix-Federated Fund held by the Separate Accounts. Applicants assert that they have reserved this right of substitution both to protect themselves and their Contract owners and participants in situations where either might be harmed or disadvantaged by events affecting the issuer of the securities held by a Separate Account and to preserve the opportunity to replace such shares in certain situations where a substitution could benefit themselves and their Contract owners and participants.

3. Applicants assert that the proposed Substitution protects the Contract owners and participants who have allocated Contract value to the Phoenix-Federated Fund by: (i) Providing an underlying investment option for the subaccounts invested in the Phoenix-Federated Fund that invests in similar types of securities as those in which the Phoenix-Federated Fund invests; (ii) providing such Contract owners and participants with simpler and more focused disclosure documents; and (iii) providing such Contract owners and participants with an investment option with the same investment advisory fee and lower total expenses than the current investment option.

4. Applicants submit that the proposed Substitution meets the standards that the Commission and its staff generally have applied to other substitutions that have been approved. The Substitution is not the type of substitution that Section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner that permanently affected all the investors in the trust, the Contracts provide each Contract owner and participant with the right to exercise his own judgment and transfer Contract values into any other available variable and/or fixed investment option. Additionally, the proposed Substitution will not, in any manner, reduce the nature or quality of the available investment options. Moreover, Applicants will offer Contract owners and participants the opportunity to transfer amounts out of the affected subaccount without any cost or other penalty that may otherwise have been imposed until thirty days after the Substitution Date. The proposed Substitution, therefore, will not result in the type of costly forced redemption that Section 26(c) was designed to prevent.

5. Applicants submit that the proposed Substitution is also unlike the type of substitution that Section 26(c) was designed to prevent in that, by purchasing a Contract, Contract owners and participants select much more than a particular underlying fund in which to invest their Contract values. Contract owners, in purchasing a Contract, also select the specific type of insurance coverage offered by Applicants under the applicable Contract, as well as numerous other rights and privileges set forth in the Contract. It is likely that, in choosing to purchase a Contract, the Contract owner also may have considered the size, financial condition, and reputation for service of the Phoenix Insurance Companies. None of these considerations and factors will change as a result of the proposed Substitution.

6. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from knowingly selling any security or other property to that company. Section 17(a)(2) of the 1940 Act generally prohibits the same persons, acting as principals, from knowingly purchasing any security or other property from the registered investment company.

7. Section 17(b) of the 1940 Act provides that the Commission may, upon application, issue an order exempting any proposed transaction from the provisions of Section 17(a) if evidence establishes that:

a. the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

b. the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and

c. the proposed transaction is consistent with the general purposes of the 1940 Act.

8. Applicants assert that the proposed In-Kind Transaction, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants maintain that the terms of the proposed Substitution, including the consideration to be paid and received, are reasonable, fair and do not involve overreaching because: (i) The proposed Substitution will not adversely affect or dilute the interests of Contract owners and participants; (ii) with respect to those securities for which market quotations are readily available, the proposed Substitution will comply with the conditions set forth in Rule 17a–7, other than the requirement relating to cash consideration; and (iii) with respect to those securities for which market quotations are not readily available, the proposed Substitution will be effected in accordance with the Phoenix-Federated Fund's and the Federated Fund's normal valuation procedures, as set forth in the registration statements of the Phoenix Trust and the Federated Trust.

9. Applicants submit that the In-Kind Transaction will be effected at the respective net asset values of the Phoenix-Federated Fund and the Federated Fund, as determined in accordance with the procedures disclosed in the registration statements of the Phoenix Trust and the Federated Trust and as required by Rule 22c–1 under the 1940 Act. The In-Kind Transaction will not change the dollar value of any participant's or Contract owner's investment in any of the Separate Accounts, the value of any Contract, the accumulation value or other value credited to any Contract, or the death benefit payable under any Contract. After the proposed In-Kind Transaction, the value of a Separate Account's investment in the Federated Fund will equal the value of its investment in the Phoenix-Federated Fund before the In-Kind Transaction.

10. Applicants assert that the proposed In-Kind Transaction will comply in substance with the principal conditions of Rule 17a–7. Applicants will assure themselves that the Phoenix Trust and the Federated Trust will carry out the proposed In-Kind Transaction in conformity with the conditions of Rule 17a–7 (or, as applicable, the Phoenix-Federated Fund's and the Federated Fund's normal valuation procedures, as set forth in the registration statements of the Phoenix Trust and the Federated Trust), except that the consideration paid for the securities being purchased or sold will not be cash. The proposed In-Kind Transaction will be effected based upon the independent current market price of the portfolio securities as specified in paragraph (b) of Rule 17a–7. The proposed In-Kind Transaction will comply with paragraph (d) of Rule 17a–7 because no brokerage commission, fee or other remuneration will be paid to any party in connection with the proposed In-Kind Transaction. Furthermore, a written record of the proposed In-Kind Transaction will be maintained and preserved in accordance with paragraph (f) of Rule 17a–7.

11. Applicants submit that even though the proposed In-Kind Transaction will not comply with the cash consideration requirement of paragraph (a) of Rule 17a–7, the terms of the proposed In-Kind Transaction will offer to the Phoenix-Federated Fund and the Federated Fund the same degree of protection from overreaching that Rule 17a–7 generally provides in connection with the purchase and sale of securities under that Rule in the ordinary course of business. In particular, because all of the portfolio securities of the Phoenix-Federated Fund will be transferred to the Federated Fund, and these portfolio securities were selected and retained, or will be selected between the date of this application and the Substitution Date,

without regard to the proposed In-Kind Transaction, none of the parties will be in a position to ''dump'' undesirable securities on either the Phoenix-Federated Fund or the Federated Fund or to transfer desirable securities to other advisory clients. Nor can the Phoenix Insurance Companies (or any of their affiliates) effect the proposed In-Kind Transaction at a price that is disadvantageous to the Phoenix-Federated Fund or the Federated Fund.

12. Applicants submit that the proposed redemption of shares of the Phoenix-Federated Fund will be consistent with the investment policies of the Phoenix-Federated Fund, as recited in the current registration statement of the Phoenix Trust, provided that the shares are redeemed at their net asset value in conformity with Rule 22c–1 under the 1940 Act. Likewise, the proposed sale of shares of the Federated Fund for investment securities is consistent with the investment policy of the Federated Fund, as recited in the registration statement of the Federated Trust, provided that: (i) the shares are sold at their net asset value; and (ii) the investment securities are of the type and quality that the Federated Fund could have acquired with the proceeds from the sale of its shares had the shares been sold for cash. The second of these conditions is met for the proposed In-Kind Transaction because the Federated Fund is compatible with or similar to the Phoenix-Federated Fund.

13. Applicants assert that the In-Kind Transaction is consistent with the general purposes of the 1940 Act and that the In-Kind Transaction does not present any of the conditions or abuses that the 1940 Act was designed to prevent.

Conclusion

Applicants assert that, for the reasons stated above, the requested order approving the Substitution and exempting the In-Kind Transaction should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21953 Filed 8–27–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25716; 812–12514]

USAllianz Variable Insurance Products Trust and USAllianz Advisers, LLC; Notice of Application

August 22, 2002.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF THE APPLICATION: USAllianz Variable Insurance Products Trust (the ''Fund'') and USAllianz Advisers, LLC (the ''Manager'') (together, ''Applicants'') request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval.

FILING DATES: The application was filed on May 2, 2001, and amended on August 19, 2002. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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 September 16, 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 of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549–0609. Applicants: the Fund, c/o BISYS Fund Services, 3435 Stelzer Road, Columbus, OH 43219; the Manager, 5701 Golden Hills Drive, Minneapolis, MN 55416.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942–0581, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Fund, a Delaware business trust, is registered under the Act as an open-end management investment company. The Fund currently is comprised of multiple series (each a ''Portfolio,'' and collectively, the ''Portfolios''), each with its own investment objectives and policies.[1] The Portfolios currently serve as the investment medium for variable life insurance policies and variable annuity contracts issued by Allianz Life Insurance Company of North America or its insurance company affiliate, Preferred Life Insurance Company of New York.

2. The Manager, registered under the Investment Advisers Act of 1940 (the ''Advisers Act''), serves as the investment adviser to the Portfolios pursuant to an investment advisory agreement with the Fund (''Management Agreement'') that was approved by the board of trustees of the Fund (the ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), and by each Portfolio's initial shareholder.[2] Under the terms of the Management Agreement, the Manager

[1] Applicants also request relief with respect to future series of the Fund and any other registered open-end management investment companies and their series that: (a) Are advised by the Manager or any entity controlling, controlled by, or under common control with the Manager; (b) use the manager of managers structure described in the application; and (c) comply with the terms and conditions in the application (''Future Portfolios,'' included in the term ''Portfolios''). The Fund is the only existing registered open-end management investment company that currently intends to rely on the requested order. If the name of any Portfolio contains the name of a Portfolio Manager (as defined below), it will be preceded by the name of the Manager or the name ''USAZ,'' which is an abbreviation of the name ''USAllianz Advisers, LLC.''

[2] One of the Portfolios, the USAZ Money Market Fund, was recently restructured. The former investment adviser of the USAZ Money Market Fund, Allianz of America, Inc., an affiliate of the Manager, currently serves as its Portfolio Manager (as defined below) and the Manager serves as its investment adviser. The restructuring to permit the USAZ Money Market Fund to operate under the manager of managers structure will require the approval of its shareholders. A shareholder meeting of the USAZ Money Market Fund is scheduled to take place on August 30, 2002, for that purpose, as well as the ratification of its Management Agreement with the Manager and its Portfolio Management Agreement (as defined below) with the Portfolio Manager.

provides investment management services for each Portfolio and may hire one or more subadvisers (''Portfolio Managers'') to exercise day-to-day investment discretion over the assets of the Portfolio pursuant to separate investment sub-advisory agreements (''Portfolio Management Agreements''). All current and future Portfolio Managers will be registered under the Advisers Act. Portfolio Managers are recommended to the Board by the Manager and selected and approved by the Board, including a majority of the Independent Trustees. The Manager compensates each Portfolio Manager out of the fees paid to the Manager by the applicable Portfolio.

3. Subject to Board review, the Manager selects Portfolio Managers for the Portfolios, monitors and evaluates Portfolio Manager performance, and oversees Portfolio Manager compliance with the Portfolios' investment objectives, policies, and restrictions. The Manager recommends Portfolio Managers based upon a number of factors used to evaluate their skills in managing assets pursuant to particular investment objectives. The Manager also recommends to the Board whether a Portfolio Management Agreement should be renewed, modified or terminated.

4. Applicants request relief to permit the Manager, subject to Board approval, to enter into and materially amend Portfolio Management Agreements without shareholder approval.[3] The requested relief will not extend to a Portfolio Manager that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Fund or the Manager, other than by reason of serving as a Portfolio Manager to one or more of the Portfolios (an ''Affiliated Portfolio Manager'').

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard for the reasons discussed below.

3. The investment structure of the Portfolios is different from that of traditional investment companies. Applicants assert that investors are relying on the Manager's experience to select one or more Portfolio Managers best suited to achieve a Portfolio's desired investment objectives. Applicants assert that, from the perspective of the investor, the role of the Portfolio Managers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of the Portfolio Management Agreements would impose unnecessary costs and delays on the Portfolios, and may preclude the Manager from acting promptly in a manner considered advisable by the Board. Applicants note that the Management Agreement will remain subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Future Portfolio, that does not currently have an effective registration statement and whose public shareholders will purchase shares on the basis of a prospectus containing the disclosures contemplated by condition number 2 below, may rely on the order requested herein, the operation of the Future Portfolio in the manner described in the application will be approved by its initial shareholder(s) before shares of such Future Portfolio are offered to the public.

2. The prospectus of each Portfolio relying on the requested relief will disclose the existence, substance and effect of any order granted pursuant to the application. In addition, each Portfolio relying on the requested relief will hold itself out to the public as employing the manager of managers structure described in the application. A Portfolio's prospectus will prominently disclose that the Manager has ultimate responsibility to oversee the Portfolio Managers and recommend their hiring, termination and replacement.

3. The Manager will provide general management services to each of the Portfolios, including overall supervisory responsibility for the general management and investment of each Portfolio's assets, and, subject to the review and approval by the Board will: (i) Set each Portfolio's overall investment strategies; (ii) evaluate, select, and recommend Portfolio Managers to manage all or part of a Portfolio's assets; (iii) when appropriate, allocate and reallocate a Portfolio's assets among multiple Portfolio Managers; (iv) monitor and evaluate the investment performance of Portfolio Managers; and (v) implement procedures reasonably designed to ensure that the Portfolio Managers comply with the relevant Portfolio's investment objectives, policies, and restrictions.

4. At all times, a majority of the Board will be persons who are Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

5. The Manager will not enter into a Portfolio Management Agreement on behalf of a Portfolio with any Affiliated Portfolio Manager, unless such agreement, including the compensation to be paid thereunder, has been approved by the shareholders of the applicable Portfolio.

6. When a Portfolio Manager change is proposed for a Portfolio with an Affiliated Portfolio Manager, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the minutes of the meeting of the Board, that such change is in the best interests of the applicable Portfolio and its shareholders and does not involve a conflict of interest from which the Manager or the Affiliated Portfolio Manager derives an inappropriate advantage.

7. No trustee or officer of the Fund or director or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that director, trustee, or officer) any interest in a Portfolio Manager except for: (i) ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Portfolio Manager or an entity that controls, is

[3] The term ''shareholders'' includes variable contract owners, as applicable. The Fund's prospectus has disclosed with respect to each Portfolio, except in the case of the USAZ Money Market Fund, since the effective date of its registration statement, that the Fund would seek an exemptive order from the Commission permitting changes in Portfolio Managers without submitting the Portfolio Management Agreements to a vote of the applicable Portfolio's shareholders.

controlled by, or is under common control with a Portfolio Manager.

8. Within 90 days of the hiring of any new Portfolio Manager, the Manager will furnish the shareholders of the applicable Portfolio all the information about the new Portfolio Manager that would be included in a proxy statement. This information will include any changes in such disclosure caused by the addition of a new Portfolio Manager. To meet this obligation, the Manager will provide the shareholders of the applicable Portfolio with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934 (''the 1934 Act''), as well as the requirements of Item 22 of Schedule 14A under the 1934 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21954 Filed 8–27–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46379; File No. SR–Amex–2002–69]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC to Correct an Improperly Numbered Rule

August 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 14, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Amex has designated this proposal as one concerned solely with the administration of the Amex pursuant to section 19(b)(3)(A)(iii) of the Act,[3] and Rule 19b–4(f)(3)[4] thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to change the rule number originally assigned to Amex Rule 431 (Anti-Money Laundering Compliance Program) to Amex Rule 432. The text of the proposed rule change is available at the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to replace the rule number originally assigned to Amex Rule 431 (Anti-Money Laundering Compliance Program), and replace it with Amex Rule 432. The Amex chose the wrong rule number inadvertently when it filed SR-Amex-2002–52.[6] At that time, there already existed an Amex Rule 431. The Amex proposes to make no other changes to the rule at this time.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act[7] in general and furthers the objectives of section 6(b)(1) of the Act[8] in particular in that it is designed to enforce compliance by its members and persons associated with its members, with the rules of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[9] and subparagraph (f)(3) of Rule 19b–4 thereunder,[10] because it is concerned solely with the administration of the Amex. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR-Amex-2002–69 and should be submitted by September 18, 2002.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(3).

[5] Despite inconsistencies in the proposed rule change, the Amex confirmed that the proposed rule change is filed pursuant to section 19(b)(3)(A)(iii) and Rule 19b–4(f)(3) thereunder, because it makes no substantive changes, and is concerned solely with the administration of the Amex. 15 U.S.C. 78s(b)(3)(A)(iii), 17 CFR 240.19b–4(f)(3). August 19, 2002 telephone conversation between Ivonne Natal, Assistant General Counsel, Amex, and Joseph Morra, Special Counsel, Division of Market Regulation, Commission.

[6] *See* Securities Exchange Act Release No. 46258 (July 25, 2002), 67 FR 49715 (July 31, 2002) (approval order).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(1).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(3).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21956 Filed 8–27–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46393; File No. SR–Amex–2002–31]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the American Stock Exchange LLC Requesting Permanent Approval of Pilot Program Eliminating Position and Exercise Limits for XMI and XII Index Options and Related Flex Options

August 21, 2002.

On April 12, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to request permanent approval of the pilot program that provides for the elimination of position and exercise limits for the Major Market (''XMI'') and Institutional (''XII'') broad-based index options, as well as FLEX Options on these indexes.[3]

The proposed rule change was published for comment in the **Federal Register** on May 30, 2002.[4] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[5] and, in particular, the requirements of section 6 of the Act[6] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act[7] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that it is appropriate to eliminate position and exercise limits for XMI and XII options, as well as related FLEX options, on a permanent basis based on the Amex's experience administering the Pilot Program. The Commission's original order approving the elimination of position and exercise limits for the XMI and XII index options (as well as FLEX options on these indexes) on a two-year basis required the Exchange to submit a report to the Commission regarding the status of the Pilot Program so that the Commission could use this information to evaluate any effects of the program.[8]

The Exchange's report indicated that from February 1, 1999 through March 30, 2001, no customer and/or firm accounts reached a level of 100,000 or more options contracts in XMI or XII options. During this review period, the Amex did not discover any instances where an account maintained an unusually large unhedged position. In addition, during the period from April 2, 2001 through February 28, 2002, the Amex did not experience accounts establishing positions in excess of the standard limit applicable to each index at the time the Pilot Program was approved.[9]

In addition to no identifiable problems during the pilot program, the Commission also believes that the factors for approval of the pilot program continue to be met. For example, in approving the pilot, the Commission stated, among other things, that the enormous capitalization of and deep, liquid markets for the underlying securities contained the XMI and XII indexes significantly reduces concerns regarding market manipulation or disruption in the underlying market.

The Commission also continues to believe that the financial requirements imposed by the Amex and the Commission help to address concerns that a member or its customer may try to maintain an inordinately large unhedged position in a broad-based index option. The Amex has the authority to impose additional margin and/or assess capital charges and should be able to monitor accounts to determine when such action is warranted.

In addition, the Commission notes that the Amex has adopted surveillance[10] and reporting safeguards that will allow it to detect and deter trading abuses arising from the elimination of position and exercise limits for XMI and XII, and FLEX options on these indexes.[11] The Commission continues to believe that these enhanced procedures are critical in our determination to permanently approve the pilot. While the pilot report did not note any aberrations or concerns about large unhedged positions, the Commission continues to believe that these procedures will enable the Amex to adequately assess and respond to market concerns at an early stage. In this regard, the Commission continues to expect the Amex to take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR–Amex–2002–31) be, and it hereby is, approved.

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[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On February 1, 1999, the Commission approved the elimination of position and exercise limits for the XMI and XII index options, as well as FLEX options on these indexes on a two-year basis (the ''Pilot Program''). *See* Securities Exchange Act Release No. 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999). The Pilot Program originally ended on February 1, 2001, with extensions for an additional six-month period approved on July 3, 2001 and January 3, 2002, respectively. *See* Securities Exchange Act Release No. 44507 (July 3, 2001), 66 FR 36348 (July 11, 2001); and Securities Exchange Act Release No. 45234 (January 3, 2002), 67 FR 1377 (January 10, 2002).

[4] *See* Securities Exchange Act Release No. 45975 (May 23, 2002), 67 FR 37882 (May 30, 2002).

[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] *See* Securities Exchange Act Release No. 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999).

[9] Telephone call between Jeffrey P. Burns, Assistant General Counsel, Amex, and Susie Cho, Special Counsel, Division of Market Regulation, Commission, August 21, 2002. At the time the Commission approved the Pilot Program, the position limits for XMI and XII were 34,000 and 200,000, respectively.

[10] Disclosure of specific surveillance procedures could provide market participants with information that could aid potential attempts at avoiding regulatory detection of inappropriate trading activity.

[11] The Amex's reporting requirements subject XMI and XII, and FLEX options on those indexes to a 100,000 contract hedge reporting requirement. Each member or member organization that maintains a position on the same side of the market in excess of these contract thresholds for its own account or for the account of a customer must file a report that includes, but is not limited to, data related to the option position, whether such position is hedged and if so, a description of the hedge. If applicable, the report must contain information concerning collateral used to carry the position.

[12] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21960 Filed 8–27–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46390; File No. SR–ISE–2002–18]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the International Securities Exchange LLC Relating to the Execution of Complex Orders Involving Options and Single Stock Futures

August 21, 2002.

I. Introduction

On June 27, 2002, the International Securities Exchange, Inc. (''ISE'' 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 adopt rules and procedures governing the execution of complex orders involving options and single stock futures. The proposed rule change was published for comment in the **Federal Register** on July 17, 2002.[3] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The proposed rule change would permit Exchange members to enter option-stock future complex orders. As is the case with stock-option complex orders, the option leg of the transaction would have priority over non-customer orders at the same price. The Exchange would execute the option leg of the trade and the parties then would seek to execute the stock futures leg on an appropriate exchange. Because the stock futures products may not be fungible between markets, the member would be required to specify the market of execution for the stock futures leg of the complex order. In addition, as with stock-option complex orders, if the parties are unable to execute the stock futures leg of the transaction due to a change in market conditions, the Exchange would cancel the option leg of the transaction at the request of a party to the trade. The proposed rule change would become part of the complex order pilot program, which the Commission has approved to operate through October 18, 2002.[4]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[6] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

In general, the Commission believes that rules permitting the execution of complex orders serve to reduce the risk of incomplete or inadequate executions, while increasing efficiency and competitive pricing. At the same time, they protect the priority of orders of public customers by permitting the legs of complex orders to trade ahead of bids and offers established in a market place only under specific restrictions. The rule change authorizes the execution of complex orders involving options and single stock futures pursuant to procedures that are virtually identical procedures for complex orders involving options and stocks. The Commission believes that these types of orders are of a similar degree of complexity to those approved in the past for special priority rules, and it is therefore appropriate to afford them the same treatment.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–ISE–2002–18) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21958 Filed 8–27–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46398; File No. SR–NASD–2002–114]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Availability of Nasdaq Services and Facilities Until 6:30 PM Eastern Time After the Introduction of Nasdaq's SuperMontage System

August 22, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 19, 2002, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq filed this proposed rule change setting forth the operation of Nasdaq's current after-hours pilot program extending the availability of several Nasdaq services and facilities until 6:30 PM[6] after the introduction of Nasdaq's SuperMontage system. Although the proposed rule change is

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 46181 (July 11, 2002), 67 FR 47010.

[4] *See* Securities Exchange Act Release No. 44955 (October 18, 2001), 66 FR 53819 (October 24, 2001) (File No. SR–ISE–2001–18).

[5] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The NASD provided the Commission with notice of its intent to file the proposed rule change on May 24, 2002. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii). Nasdaq asked the Commission to waive the 30-day operative delay.

[6] All references to time are Eastern Time.

effective upon filing with the Commission, Nasdaq will implement the rule change within 30 days after successful completion of SuperMontage user acceptance testing. The text of the proposed rule change is below. Proposed additions are in italics.

4701. Definitions

(a) through (ii) No Change.

(jj) The term ''End-of-Day'' shall mean, for orders so designated, that if after entry into the NNMS, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential execution and/or display until market close (4 p.m. Eastern Time), and thereafter for potential execution until 6:30 p.m. Eastern Time, after which it shall be returned to the entering party.

* * * * *

4706. Order Entry Parameters

(a) Non-Directed Orders—

(1) General. The following requirements shall apply to Non-Directed Orders Entered by NNMS Market Participants:

(A) through (E) No Change.

(b) Directed Orders A participant may enter a Directed Order into the NNMS to access a specific Attributable Quote/Order displayed in the Nasdaq Quotation Montage, subject to the following conditions and requirements:

(1) Unless the Quoting Market Participant to which a Directed Order is being sent has indicated that it wishes to receive Directed Orders that are Liability Orders, a Directed Order must be a Non-Liability Order, and as such, at the time of entry must be designated as:

(A) an ''All-or-None'' order (''AON'') that is at least one normal unit of trading (e.g. 100 shares) in excess of the Attributable Quote/Order of the Quoting Market Participant to which the order is directed; or

(B) a ''Minimum Acceptable Quantity'' order (''MAQ''), with a MAQ value of at least one normal unit of trading in excess of Attributable Quote/Order of the Quoting Market Participant to which the order is directed. Nasdaq will append an indicator to the quote of a Quoting Market Participant that has indicated to Nasdaq that it wishes to receive Directed Orders that are Liability Orders.

(2) A Directed Order may have a time in force of 3 to 99 minutes, or may be designated as a ''Day'' order, *or an ''End-of-Day'' order.*

(3) Directed Orders shall be processed pursuant to Rule 4710(c).

(c) through (f) No Change

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In October of 1999, the Commission approved a pilot program that made available certain Nasdaq systems and facilities until 6:30 PM. Under the pilot, Nasdaq provides, until 6:30 PM, the following services: (1) SelectNet Service (''SelectNet''); (2) Automated Confirmation Transaction Service (''ACT''); (3) Nasdaq Quotation Dissemination Service (''NQDS''); and (4) Nasdaq Trade Dissemination Service (''NTDS''). The posting of quotations and/or trading of securities by NASD members during the period of time after Nasdaq's normal market close and before 6:30 PM was, and remains, voluntary. Since its original approval, this pilot program has been extended numerous times and has operated continuously.[7] Nasdaq intends to continue to provide its facilities for voluntary after-hours trading after the introduction of SuperMontage.

After Nasdaq launches SuperMontage, market participants who elect to conduct business after the 4 PM Nasdaq market close will do so in same manner as they do today. Quotes entered after hours will continue to be disseminated by Nasdaq via NQDS,[8] and Nasdaq's ACT system will continue to accept trade reports up to 6:30 PM. Nasdaq will also continue to disseminate transactions report to the public via the consolidated Securities Information Processor (''SIP''). The pilot will continue to operate under the same terms and conditions set forth in the Commission's previous approval order,[9] including the continued mandating of 90-second trade reporting until 6:30 PM. The only changes to the pilot will be ones of terminology. Currently, after-hours market participants use SelectNet to communicate with each other. In the SuperMontage environment, this after-hours service will be provided using the Directed Order functionality of the SuperMontage system, a functionality that relies extensively on the current SelectNet technology. While the SelectNet system name will no longer be used, market participants that wish to communicate with each other after-hours using a Nasdaq system will use directed orders that operate exactly the same way and provide the same features that after-hours SelectNet orders do today. Similarly, today's SelectNet allows a market participant to enter an order designated as an ''E'' indicating that the entering party wishes it to remain in effect after the 4 PM market close, until 6:30 PM, when all Nasdaq systems close.[10] In the SuperMontage environment, such orders will be re-designated as ''End-of-Day'' (''EOD'') orders, but will provide exactly the same functionality as an extended-hours ''E'' order in today's SelectNet. The Directed Order process will remain, like its SelectNet predecessor, the sole Nasdaq-provided system for participating in after-hours trading.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[11] in general and with section 15A(b)(6) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

[7] Nasdaq's after-hour pilot is scheduled to terminate on September 1, 2002. *See* Securities Exchange Act Release No. 45503 (March 5, 2002), 67 FR 10955 (March 11, 2002)(SR–NASD–2002–29).

[8] The best bid and best offer in a particular security will be sent to the consolidated Securities Information Processor (''SIP'') for full public dissemination.

[9] *See* Securities Exchange Act Release No. 42003 (October 13, 1999), 64 FR 56554 (October 20, 1999)(SR–NASD–99–57).

[10] End-of-Day orders may be entered throughout the day starting at 7:30 AM until the close of all Nasdaq systems at 6:30 PM. Once entered, such orders shall be continuously available for execution by those receiving them until 6:30 PM, unless cancelled prior to that time by the entering party. Orders not executed by the 6:30 PM system-close time will be cancelled by the system, and a notification of that cancellation will be sent to the entering party. As such, no EOD order will carry over to the next trading day.

[11] 15 U.S.C. 78o–3.

[12] 15 U.S.C. 78o–3(6).

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Nasdaq has requested that the Commission waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow Nasdaq to implement the change in terminology immediately, thereby ensuring that the proper terminology is in place for the launch of SuperMontage. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[15]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2002–114 and should be submitted by September 18, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21955 Filed 8–27–02; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46383; File No.SR–Phlx–2002–41]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Capital Funding Fee Late Charge

August 20, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 16, 2002, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, and II below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend the amount of the late charge that is imposed by the Exchange as set forth in Phlx Rule 51, *Enforcement of Capital Funding Fee.*[3] Currently, the late charge is set at a monthly rate of 1 percent (simple interest) for each thirty-day period or fraction thereof, calculated on a daily basis, commencing with the twenty-first day. The Exchange now proposes to increase the amount of the late charge from 1 percent to 1.5 percent. In addition, the Exchange proposes to extend the invoice due date for the capital funding fee from twenty days to thirty days. Thus, the proposed rule change would require the capital funding fee to be paid within thirty days from the invoice date, with the new monthly late charge of 1.5 percent commencing on the thirty-first day. All other provisions of Phlx Rule 51 would remain the same.

The text of the proposed rule change is set forth below. New text is italicized; deleted text is bracketed.

Rule 51. Enforcement of Capital Funding Fee

Notice and Late Charges

(a) The Exchange shall issue invoices to each owner (for purposes of this Rule, an ''Obligor'') providing notice of the obligation to pay the capital funding fee within *thirty* [twenty] days from the invoice date. If an Obligor fails to pay the Exchange the capital funding fee by the due date, the Exchange shall provide a written Late Notice of such failure (the ''Late Notice'') and, subject to subsection (b), impose a late charge at a monthly rate of 1.5 [1] percent (simple interest) for each thirty-day period or fraction thereof, calculated on a daily basis, commencing with the *thirty-first* [twenty-first] day.

* * * * *

The Exchange proposes that if approved, changes to Phlx Rule 51 would become operative on September 1, 2002.[4] Accordingly, proposed changes to Phlx Rule 51 would apply to all capital funding fee account receivable balances due to the Exchange on or after that date. For example, delinquent balances due to the Exchange in August 2002 at a rate of 1

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44872 (September 28, 2001), 66 FR 51084 (October 5, 2001)(SR–Phlx–99–52). The capital funding fee is currently a $1,500 fee imposed monthly on owners of Phlx memberships.

[4] Telephone conversation between Cynthia K. Hoekstra, Counsel, Phlx, and Steven G. Johnston, Special Counsel, Division of Market Regulation, Commission, July 30, 2002 (clarifying the Exchange's proposal to delay the operative date of proposed changes to Phlx Rule 51 until September 1, 2002).

percent would be charged a rate of 1.5 percent as of September 1, 2002.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to increase the amount of the late charge imposed by the Exchange pursuant to Phlx Rule 51 from 1 percent to 1.5 percent and to extend the invoice due date to thirty days, thereby making these provisions more consistent with Exchange Rule 50, *Late Charge.*[5] In addition, increasing the late charge and extending the invoice due date should encourage members to pay the capital funding fee to the Exchange on a timely basis. This, in turn, should deter the practice of late payments.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act[6] in general, and furthers the objectives of section 6(b)(4) of the Act[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities who do not make timely payments to the Exchange. In addition, Phlx believes that the proposal should promote just and equitable principles of trade and protect investors and the public interest, consistent with section 6(b)(5) of the Act,[8] by imposing a higher interest rate and extending the invoice due date, which should, in turn, encourage prompt payment of capital funding fees to the Exchange by an owner of a Phlx membership.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 Phlx. All submissions should refer to File No. SR–Phlx–2002–41 and should be submitted by September 18, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed this proposed rule change and finds it consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[9] Specifically, the Commission finds the proposal to be consistent with section 6(b)(4) of the Act.[10] Since the proposed provisions would be uniformly applied to all seat owners with outstanding balances, the amendment conforms to the requirement of the Act that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

The Phlx has requested that the Commission approve the proposed rule change on an accelerated basis. The Exchange represents that accelerated approval of its proposal should encourage prompt payment of outstanding capital funding fee balances and should assist the Exchange with collecting funds owed to it in a timely fashion. Further, the Phlx states that the proposed increase in the late charge for the capital funding fee is similar to an increase it imposed recently on members with outstanding accounts payable.[11] The Commission notes that Phlx Rule 51 requires the Exchange to give owners notice of each due date for the capital funding fee as well as written notice of late charges if payment is not made. Further, the proposed rule change extends the time after which the Exchange will impose late charges from 21 days to 31 days. The Commission believes that the proposal will permit the Exchange to collect the capital funding fee in a more timely fashion. Accordingly, the Commission finds good cause for approving the proposed rule change (SR-Phlx-2002–41) prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR-Phlx-2002–41) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21957 Filed 8–27–02; 8:45 am]

BILLING CODE 8010–01–P

[5] Current Phlx Rule 50 provides, in part, that a late charge of 1.5 percent simple interest for each thirty-day period or fraction thereof, calculated on a daily basis, during which accounts payable to the Exchange remain outstanding, is imposed upon any member, member organization, participant or participant organization or an employee thereof using the facilities or services of the Exchange, or enjoying any of the privileges therein for dues, foreign currency options users' fees, fees, other charges, fines, and/or other monetary sanctions or other monies due and owed the Exchange and not paid within 30 days after the date of the original invoice. The Exchange represents that an account is not subject to a late charge until the unpaid balance remains outstanding at least 31 days. *See* Securities Exchange Act Release No. 45681 (April 2, 2002), 67 FR 17098 (April 9, 2002) (File No. SR–Phlx–2002–19).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78f(b)(5).

[9] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(4).

[11] *See* note 5 *supra.*

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46392; File No. SR–Phlx–2002–45]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding Fees for Remote Competing Specialists

August 21, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 6, 2002, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to amend its schedule of dues, fees and charges to adopt a number of new fees applicable to members and member organizations in connection with their remote competing specialist operations, and to amend the existing exemption of certain member organizations operating on the Exchange's trading floor from the Exchange's Examinations Fee in light of the commencement of the remote competing specialist program.[3]

In order to be a remote competing specialist, a member organization will require PACE terminals (''Remote Workstations'') and related equipment which are furnished and installed by the Exchange. [4] The following new fees and charges relate to Remote Workstations and related equipment, as well as communications requirements.

Remote Specialist Equipment Installation Fee. The Exchange is proposing to charge a one-time fee of $500 to install Remote Workstations at a remote competing specialist facility. This fee will be billed upon the completion of the installation and is not variable based upon the number of Remote Workstations installed at that facility.

Remote Specialist Equipment Rental Fee. The Exchange is proposing to charge a fee of $355 per month for the first two Remote Workstations at any one remote facility, and an additional fee of $144 per month for each Remote Workstation in excess of two at any one remote facility.[5] For example, the fee for two Remote Workstations at two different sites would be $710 per month. This fee will be assessed for each month in which a Remote Workstation is available for use at a remote competing specialist facility one or more days of the month, regardless of the extent to which it is actually used in trading that month and regardless of the date of installation or removal of the equipment.

Remote Specialist System Fee. The Exchange is proposing to establish a Remote Specialist System Fee in the amount of $250 per month per Remote Workstation.[6] This fee will also be assessed for each month in which a Remote Workstation is available for use at a remote competing specialist facility one or more days of that month, regardless of the extent to which it is actually used in trading that month and regardless of the date of installation or removal of the Remote Workstation.

Remote Specialist Security Routing Fee. The Exchange is proposing to establish a Security Routing Fee in the amount of $250 per month per individual registered specialist trading for any part of the month from a remote facility.

Remote Specialist Telecommunications Installation Fee. The Exchange proposes to establish a fee for remote competing specialists electing to use the Phlx wide area network (the ''Phlx WAN''), as described below. The cost of establishing initial connectivity to the Phlx WAN will be rebilled at Phlx's cost paid to a vendor. This fee will be billed upon the completion of the installation.

Remote Specialist Telecommunications Fee. Remote competing specialists will be able to connect to the Phlx in one of two ways, both of which require a TCP/IP line with 256kbs bandwidth per workstation. First, remote competing specialists may connect through a Member Firm Interface (MFI). Alternatively, remote competing specialists may elect to be connected to the Phlx WAN. This Phlx WAN connection is made through a third party with whom the Phlx has contracted. For each remote competing specialist connecting to the Phlx WAN (rather than connecting through a MFI), Phlx will charge a Remote Specialist Telecommunications Fee. This fee will vary based upon the number of Remote Workstations provided at a particular remote facility, as follows:[7]

Number of Workstations	Monthly Charge
2	$2,800
3	$3,600
4	$4,000
5	$4,700
6	$5,100
7	$5,875
8	$6,275
9	$7,535
10	$7,935
11	$8,335
12	$8,735

This fee will be assessed for each month in which a Phlx WAN connection is available for use at a remote competing specialist facility one or more days of that month, regardless of the extent to which it is actually used in trading that month and regardless of the date of installation or removal of the Phlx WAN connection.

The Exchange also proposes to modify the application of its Examination Fee to organizations that are remote competing specialists as follows:

Amendment to Examinations Fee. The Exchange proposes to amend the existing Examinations Fee by extending an exemption to the fee which is currently in place. Specifically, member organizations would be exempt from the fee if they operate from the PHLX trading floor or as remote competing specialists and have demonstrated that at least 25% of their income as reflected on the most recently submitted FOCUS Report was derived from floor activities or remote competing specialist activities.[8]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Phlx Rule 461, PACE Remote Specialist, and Securities Exchange Act Release No. 45184 (December 21, 2001), 67 FR 622 (January 4, 2002) (approving SR–Phlx–2001–98).

[4] PACE is the electronic order routing, delivery execution and reporting system used to access the Phlx Equity Floor. *See* Phlx Rules 229, Philadelphia Stock Exchange Automated Communication and Execution System (PACE) and 229A, Operation of PACE System When Competing Specialists are Trading.

[5] Payment for a minimum of two Remote Workstations will be required for each remote location.

[6] *Id.*

[7] *Id.*

[8] The Exchange notes that for most purposes under its rules a remote competing specialist is considered to be transacting business on the floor. For example, Rule 461(f) provides that ''All rule, by-law and Certificate of Incorporation references pertaining to the trading floor of the Exchange shall be deemed to include any bids, offers, orders and trading done remotely, and all such bids, offers, orders and trades shall be deemed to be Phlx bids, offers, orders and executions on the Exchange.'' In addition, Phlx represents that Remote Specialists will be subject to the jurisdiction of the Floor Procedure Committee in the same manner they would if their operations were conducted on the physical trading floor, and that Remote Specialists will be eligible to serve on the Board of Governors and in committee positions reserved for persons associated with member organizations primarily

The Exchange designates the Remote Specialist System Fee and the Remote Specialist Security Routing Fee (but not the other new fees described in this filing) as eligible for the Monthly Member Credit.[9]

A copy of Appendix A to the Exchange's Schedule of Dues, Fees and Charges, as proposed to be amended, is available at the principal office of the Exchange and at the Commission's Public Reference Room as described in Item III below.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 21, 2001, the Commission approved a proposed rule change relating to the Exchange's plans to implement a remote competing specialist program.[10] Competing specialists have been operating on the Exchange's physical trading floor since February 2002. Under the remote competing specialist program as currently in effect, competing specialists (but not primary specialists) will be eligible to trade as specialists from locations other than the Phlx equity floor. The Exchange anticipates commencing its remote competing specialist program in the near future.

The purpose of the proposed rule change is to generate revenue for the Exchange, based upon the specialist trading activities of remote competing specialists, which will enhance the Exchange's ability to provide a marketplace for its remote competing specialists and other members. The Exchange notes that certain of its current dues, fees and charges are assessed for privileges the Exchange extends with respect to, and services it provides on, the physical equity trading floor. These fees include the Trading Post/Booth Fee; Trading Post with Kiosk Fee; the Kiosk Construction Fee; the Controller Space Fee; the Floor Facility Fees; the Direct Wire to the Floor Fee; the Telephone System Line Extensions Fee; the Quotron Equipment Fee; the Instinet, Reuters Equipment Fee; the Trading Floor Personnel Registration Fee; the Computer Equipment Services, Repairs or Replacements Fee and the Computer Relocation Requests Fee.[11] Because the Exchange will not charge these fees to remote competing specialists, the Exchange believes the new fees proposed herein to be paid by members and member organizations based on their remote competing specialist trading activity are a reasonable and equitable way for the Exchange to raise revenues to defray costs of providing a marketplace for its specialists and other members, whether floor-based or remote. Additionally, the Exchange believes that by amending the exemption to the Examinations Fee, it preserves one of the original purposes of the Examinations Fee, which was to compensate for the extensive staff time and costs associated with examining off-floor firms who are not active participants in Phlx markets.[12] Although they will operate remotely, the Exchange anticipates that remote competing specialists will be active participants in Phlx markets. [13]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[14] in general and furthers the objectives of section 6(b)(4) of the Act,[15] in particular, by providing for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes that the application of the fees, dues and charges proposed herein is consistent with the requirement of section 6(b)(5) of the Act,[16] which requires that the rules of the Exchange not be designed to permit unfair discrimination between customers, issuers, brokers or dealers. The Exchange represents that the proposal is designed to raise revenue to enable the Exchange to provide a competitive marketplace for its members. Additionally, the Exchange believes that the new fees proposed herein are fair and equitable because the members and member organizations which will pay the new fees will have the benefits of trading as competing specialists from remote locations.

B. Self-Regulatory Organization's Statement on Burden On Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments On the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act [17] and Rule 19b–4(f)(2) thereunder.[18] Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

engaged in business on the Exchange's Equity Floor. Telephone call between Carla Behnfeldt, Director, Legal Department New Product Development Group, Phlx, and Jennifer Lewis, Attorney, Division of Market Regulation, Commission, on August 20, 2002.

[9] *See* Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001) (approving SR-Phlx-2001–49). The Monthly Member Credit allows Exchange members to receive a monthly credit of up to $1,000 to be applied against fees, dues, charges and other such amounts.

[10] *See supra* note 3.

[11] The Exchange notes that the Remote Information Access Fee does not apply to information provided to a remote competing specialist on his or her Remote Workstation. However, the fee could apply to a firm that wishes to use the Remote Information Access service at a different site than that from which the remote competing specialists are trading to obtain information from the Exchange on the remote competing specialists' trading activities. If a member organization wishes to use this service to access trading information concerning *both* floor-based and remote competing specialists, it will be charged a single fee to access information from both sources. Except as described herein, all fees, dues, discounts, credits and charges applicable to Phlx floor-based competing specialists (including the PACE Specialist Charge of $.20 per trade against PACE executions excluding PACE trades on the opening) will also apply to Phlx remote competing specialists.

[12] *See* Securities Exchange Act Release No. 35091 (December 12, 1994), 59 FR 65558 (December 20, 1994).

[13] *See supra* note 8. The Exchange also notes that Phlx remote competing specialists are considered specialists as envisioned by Section 11 of the Act and are subject to a number of obligations as such under Section 11(b) of the Act and Exchange rules.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 240.19b–4(f)(2).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2002–45 and should be submitted by September 28, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21959 Filed 8–27–02; 8:45 am]

BILLING CODE 8010–01–P

[19] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

Bureau of Educational and Cultural Affairs (ECA/EC/ECD)

[Public Notice 4111]

60-Day Notice of Proposed Information Collection: Form DS–3097, Annual Report by Sponsors of Exchange Visitor Programs; OMB Control Number 1405-xxxx

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

Type of Request: New collection.

Originating Office: Bureau of Educational and Cultural Affairs, Office of Exchange Coordination and Designation (ECA/EC/ECD).

Title of Information Collection: Annual Report by Sponsors of Exchange Visitor Programs.

Frequency: Annually.

Form Number: DS–3097.

Respondents: The respondents are United States Government agencies and public and private organizations designated by the Department to administer the Exchange Visitor Program.

Estimated Number of Respondents: 1450 program sponsors.

Average Hours Per Response: One hour per response.

Total Estimated Burden: 1450 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Stanley S. Colvin, Acting Director, Office of Exchange Coordination and Designation, U.S. Department of State, 301 Fourth Street, SW., Room 852, Washington, DC 20547, who may be reached on 202–401–9810 or by fax at 202–401–9809.

Dated: August 15, 2002.

Patricia S. Harrison,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 02–21927 Filed 8–27–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

Office of Overseas Schools (A/OPR/OS)

[Public Notice 4110]

30-Day Notice of Proposed Information Collection: Form DS–2061, Approval of Funding to Support Special Educational Programs; OMB Control Number 1405–0031

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement.

Originating Office: Bureau of Administration, A/OPR/OS.

Title of Information Collection: Approval of Funding to Support Special Educational Programs.

Frequency: Annual.

Form Number: DS–2061 (Formerly JF–45).

Respondents: Participants in the consolidated overseas schools assistance program.

Estimated Number of Respondents: 89.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 44.50 hours.

Public comments are being solicited to permit the agency to:

- 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 collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Keith D. Miller, Office of Overseas Schools, U.S. Department of State, Washington, DC

20520. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: April 16, 2002.

Jerome F. Tolson, Jr.,

Executive Director, Acting, Bureau of Administration, Department of State.

[FR Doc. 02–21928 Filed 8–27–02; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 4109]

Culturally Significant Objects Imported for Exhibition Determinations: ''Leonardo da Vinci and the Splendor of Poland: A History of Collecting and Patronage''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Leonardo da Vinci and the Splendor of Poland: A History of Collecting and Patronage,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at Milwaukee Art Museum, Milwaukee, WI, from on or about September 13, 2002, to on or about November 14, 2002; The Museum of Fine Arts, Houston, TX, from on or about December 8, 2002, to from or about February 16, 2003, and to the Fine Arts Museums of San Francisco, California Palace of the Legion of Honor, San Francisco, CA, from on or about March 8, 2003, to from or about May 18, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 22, 2002.

Miller C. Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02–21926 Filed 8–27–02; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Notice of Special GSP Review of Product Petitions for Argentina, Philippines and Turkey

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice announces a Special Review of product petitions for Argentina, Philippines, and Turkey, received in the 2001 GSP Annual Review for modifications in the list of articles that are eligible for duty-free treatment under the GSP program, and sets forth the schedule for comment and public hearing on these petitions, for requesting participation in the hearing, and for submitting pre-hearing and post-hearing briefs. Notices providing information regarding the acceptance of other petitions submitted in the 2001 GSP Annual Review and regarding the initiation of a 2002 GSP Annual Review will be published in the **Federal Register** in September 2002.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative (USTR), 1724 F Street, NW., Room F–220, Washington, DC 20508. The telephone number is (202) 395–6971 and the facsimile number is (202) 395–9481.

SUPPLEMENTARY INFORMATION: The GSP program grants duty-free treatment to designated eligible articles that are imported from designated beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974, as amended (''Trade Act'') (19 U.S.C. 2461 *et seq.*), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations, and is administered in accordance with GSP regulations (15 CFR part 2007). The GSP program expired on September 30, 2001, but was renewed retroactively by section 4101 of Public Law 107–210 through December 31, 2006.

Announcement of a Special Review of Products for Argentina, Philippines and Turkey

In a **Federal Register** notice dated April 13, 2001, USTR initiated the 2001 GSP Annual Review and announced a deadline of June 13, 2001, for the filing of petitions (66 FR 19278). The received product petitions requested changes in the eligibility of products by adding or removing products, or by waiving the ''competitive need limitations'' (CNLs) for a country for eligible articles. Authorization for granting CNLs waivers is set forth in section 503(d) of the Trade Act (19 U.S.C. 2463(d)).

The interagency GSP Subcommittee of the Trade Policy Staff Committee (TPSC) has reviewed the petitions and decided to initiate a Special Review of petitions from Argentina, Philippines and Turkey involving 17 products. The Annex to this notice sets forth the case number, product identification, the change requested and the petitioner for each product included in this review. Acceptance of a petition for review does not indicate any opinion with respect to disposition on the merits of the petition. Acceptance indicates only that the listed petitions have been found eligible for review by the GSP Subcommittee and that such review will take place.

Any modifications to the list of articles eligible for duty-free treatment under the GSP resulting from this Special Review will be announced on or about January 31, 2003, and any changes may take effect 30 days from publication in the **Federal Register**.

Opportunities for Public Comment and Inspection of Comments

The GSP Subcommittee of the TPSC invites comments in support of or in opposition to any petition which is the subject of this Special Review. Submissions should comply with 15 CFR Part 2007, including sections 2007.0 and 2007.1. All submissions should identify the subject article(s) in terms of the current Harmonized Tariff Schedule of the United States (HTS) nomenclature. The Public Comment and Hearing Schedule is included as part of the Annex.

Requirements for Submissions

In order to facilitate prompt processing of submissions, USTR strongly urges and prefers electronic e-mail submissions in response to this notice. In the event that an e-mail submission is impossible, submissions should be made by facsimile. These submissions should be single copy transmissions in English with the total submission not to exceed 50 single-

spaced pages. Persons making submissions by e-mail should use the following subject line: ''2001 Special 3-Country Review'' followed by the Case Number (for example, 2001–SR–01) found in the annex and, as appropriate ''Written Comments'', ''Notice of Intent to Testify'', ''Pre-hearing brief'', ''Testimony'', ''Post-hearing brief'' or ''Comments on USITC Advice''. Documents, in English, should be submitted as either WordPerfect (.WPD), MSWord (.DOC), or text (.TXT) files. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel suitable for printing only on 8½ x 11 inch paper.

Facsimile submissions should include, among other identifying information specified in the regulations, the following information at the top of the first page: ''2001 Special 3-Country Review'' followed by the Case Number found in the annex and, as appropriate ''Written Comments'', ''Notice of Intent to Testify'', ''Pre-hearing brief'', ''Testimony'', ''Post-hearing brief'' or ''Comments on USITC Advice''.

For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. To the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. The e-mail address for these submissions is *FR0031@USTR.GOV.*

Information submitted will be subject to public inspection shortly after the due date by appointment with the staff of the USTR public reading room, except for information granted ''business confidential'' status pursuant to 15 CFR 2003.6 and other qualifying information submitted in confidence pursuant to 15 CFR 2007.7. If the original document contains business confidential information, a nonconfidential version must be submitted along with the confidential version. In addition, the document containing confidential information should be clearly marked ''CONFIDENTIAL'' at the top and bottom of each page of the document. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of every page (either ''PUBLIC VERSION'' or ''NONCONFIDENTIAL''). Comments must be submitted by 5 p.m., September 30, 2002. Comments by interested persons on the nonconfidential USITC report prepared as part of this product review must be submitted, in English, by 5 p.m., January 8, 2003.

Public versions of all documents relating to this review will be available for review shortly after the due date by appointment in the USTR public reading room, 1724 F Street NW., Washington, DC. Appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday by calling (202) 395–6186.

Notice of Public Hearings

Hearings will be held on October 18, 2002 beginning at 10 a.m. at the Office of the United States Trade Representative, 1724 F Street, NW., Washington, DC 20508. The hearings will be open to the public and a transcript of the hearings will be made available for public inspection or can be purchased from the reporting company. No electronic media coverage will be allowed.

All interested parties wishing to make an oral presentation at the hearings must submit the name, address, telephone number, and facsimile number of the witness(es) representing their organization to the Chairman of the GSP Subcommittee by 5 p.m., September 30, 2002. Requests to present oral testimony in connection with the public hearings must be accompanied by a written brief or statement, in English, and also must be received by 5 p.m., September 30, 2002. Oral testimony before the GSP Subcommittee will be limited to five-minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. Post-hearing briefs or statements will be accepted if they conform with the regulations cited above and are submitted, in English, by 5 p.m., November 13, 2002. Parties not wishing to appear at the public hearings may submit pre-hearing written briefs or statements, in English, by 5 p.m., September 30, 2002, and may submit post-hearing written briefs or statements, in English, by 5 p.m., November 13, 2002.

Steven Falken,

Chairman, GSP Subcommittee.

BILLING CODE 3901–01–P

Case No.	HTS Subheading	Article	Petitioner
		[The bracketed language in this Annex has been included only to clarify the scope of the numbered subheadings which are being considered, and such language is not itself intended to describe articles which are under consideration.]	
A.		Petitions to add products to the list of eligible articles for the Generalized System of Preferences.	
		Cheese and curd:	
		[Fresh (unripened or uncured) cheese, including whey cheese, and curd; grated or powdered cheese, of all kinds; processed (process) cheese, not grated or powdered; blue-veined cheese]	
		Other cheese	
		Romano made from cow's milk, Reggiano, Parmesan, Provolone and Provoletti cheeses:	
		[Described in general note 15 of the tariff schedule and entered pursuant to its provisions]	
		Other:	
		Made from cow's milk:	
2001-SR-01	0406.90.41	Described in additional U.S. note 21 to this chapter and entered pursuant to its provisions	Government of Argentina; Sancor Cooperativas Unidas Limitada, Argentina
		Peanuts (ground-nuts), not roasted or otherwise cooked, whether or not shelled or broken:	
		In shell:	
2001-SR-02	1202.10.40	Described in additional U.S. note 2 to this chapter and entered pursuant to its provisions	Government of Argentina; Argentine Peanut Chamber, Argentina
		Shelled, whether or not broken:	
2001-SR-03	1202.20.40 1/	Described in additional U.S. note 2 to this chapter and entered pursuant to its provisions	do.
		Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 percent by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:	
		[Preparations for infant use, put up for retail sale; Mixes and doughs for the preparation of bakers' wares of heading 1905]	
		Other:	
		[Articles provided for in subheading 1901.90.10 through 1901.90.36, inclusive]	
		Other:	
		Dairy products described in additional U.S. note 1 to chapter 4:	
		Dairy preparations containing over 10 percent by weight of milk solids:	
2001-SR-04	1901.90.42	Described in additional U.S. note 10 to chapter 4 and entered pursuant to its provisions	Government of Argentina; SanCor Cooperativas Unidas Limitada, Argentina

1/ The TPSC also requests advice on the granting of a waiver of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act for Argentina on the articles provided for in this subheading.

Annex (continued)
-2-

Case No.	HTS Subheading	Article	Petitioner
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences. (con.)			
		Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:	
		Nuts, peanuts (ground-nuts) and other seeds, whether or not mixed together:	
		Peanuts (ground-nuts):	
		[Peanut butter and paste]	
		Blanched peanuts:	
2001-SR-05	2008.11.25 1/	Described in additional U.S. note 2 to chapter 12 and entered pursuant to its provisions	Government of Argentina; Argentine Peanut Chamber, Argentina
		Other:	
2001-SR-06	2008.11.45	Described in additional U.S. note 2 to chapter 12 and entered pursuant to its provisions	do.
		Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter:	
		Pineapple juice:	
		Of a Brix value not exceeding 20:	
2001-SR-07	2009.41.20	Not concentrated, or having a degree of concentration of not more than 3.5 (as determined before correction to the nearest 0.5 degree)	Dole Food Company, Inc., Westlake Village, CA
		Other:	
2001-SR-08	2009.49.20 2/	Not concentrated, or having a degree of concentration of not more than 3.5 (as determined before correction to the nearest 0.5 degree)	do.
		Grape juice (including grape must):	
2001-SR-09	2009.61.00 1/	Of a Brix value not exceeding 30	Government of Argentina; Argentine Chamber Producers/Exporters of Grape Must, Argentina
2001-SR-10	2009.69.00 1/	Other	do.
		Wine of fresh grapes, including fortified wines; grape must other than that of heading 2009:	
		[Sparkling wine; other wine; grape must with fermentation prevented or arrested by the addition of alcohol]	
2001-SR-11	2204.30.00	Other grape must	do.

1/ The TPSC also requests advice on the granting of a waiver of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act for Argentina on the articles provided for in this subheading.

2/ The petitioner also requests a waiver of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act for the Philippines on the articles provided for in this subheading.

Annex (continued)
-3-

Case No.	HTS Subheading	Article	Petitioner
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences. (con.)			
		Rosin and resin acids, and derivatives thereof; rosin spirit and rosin oils; run gums: [Rosin and resin acids; salts of rosin, of resin acids or of derivatives of rosin or resin acids, other than salts of rosin adducts; ester gums]	
2001-SR-12	3806.90.00	Other	Government of Argentina; Akzo Nobel Coatings, S.A., Argentina
		Ferroalloys: [Ferromanganese; ferrosilicon; ferrosilicon manganese; ferrochromium; ferrosilicon chromium; ferronickel; ferromolybdenum; ferrotungsten and ferrosilicon tungsten]	
		Other: [Ferrotitanium and ferrosilicon titanium; ferrovanadium; ferroniobium]	
		Other: [Ferrozirconium]	
2001-SR-13	7202.99.50	Other	Government of Argentina; Stein Ferroaleaciones S.A.C.I.F.A., Argentina
		Ball or roller bearings, and parts thereof:	
		Ball bearings:	
2001-SR-14	8482.10.10	Ball bearings with integral shafts	Government of Argentina; SKF Argentina S.A., Argentina
2001-SR-15	8482.10.50	Other	do.
2001-SR-16	8482.20.00	Tapered roller bearings, including cone and tapered roller assemblies	do.
B. Petitions for waiver of competitive need limits for a product on the list of eligible products for the Generalized System of Preferences.			
		Articles of jewelry and parts thereof, of precious metal or of metal clad with precious metal:	
		Of precious metal whether or not plated or clad with precious metal:	
		[Of silver, whether or not plated or clad with other precious metal]	
		Of other precious metal, whether or not plated or clad with precious metal:	
		[Articles provided for in subheading 7113.19.10]	
		Other: [Necklaces and neck chains, of gold; clasps and parts thereof]	
2001-SR-17	7113.19.50 (Turkey)	Other	Arpas Ihracat Ithalat ve Pazarlama A.S., Turkey

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

GSP – 2001 SPECIAL 3-COUNTRY PRODUCT REVIEW for ARGENTINA, PHILIPPINES, AND TURKEY

PUBLIC COMMENT AND HEARING SCHEDULE

September 30, 2002	Deadline for REQUESTS TO APPEAR AT PUBLIC HEARINGS and submission of PRE-HEARING BRIEFS.
	Deadline for providing the name, address, telephone, fax, and organization of witnesses.
October 18, 2002	PUBLIC HEARINGS, Office of U.S. Trade Representative (USTR) (Annex), 1724 F Street, N.W., Washington, D.C. 20508.
November 13, 2002	Deadline for submission of POST-HEARING and REBUTTAL BRIEFS.
December 18, 2002	USITC publishes Advice to the President.
January 8, 2003	Deadline for submission of PUBLIC COMMENTS on USITC ADVICE to the President.
January 31, 2003	Decisions will be announced on or about this date, and changes may become effective 30 days later.

For further information contact: GSP Information Center
Office of the U.S. Trade Representative
1724 F Street, N.W.
Washington, D.C. 20508
T-202-395-6971; F-202-395-9481

Notification of any changes will be given in the Federal Register.

[FR Doc. 02–21965 Filed 8–27–02; 8:45 am]

BILLING CODE 3901–01–C

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Technical Corrections to the Harmonized Tariff Schedule of the United States

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative (USTR) is making technical corrections to the Harmonized Tariff Schedule of the United States (HTS) as set forth in the annex to this notice, pursuant to authority delegated to the USTR in Presidential Proclamation 6969 of January 27, 1997 (62 FR 4415). These modifications correct two inadvertent errors in Presidential Proclamation 7351 of October 2, 2000 (65 FR 59329), and one inadvertent omission in Presidential Proclamation 6763 of December 23, 1994 (60 FR 1007), so that the intended tariff treatment is provided.

EFFECTIVE DATE: October 2, 200, for Annex sections A and B; January 1, 1995, for Annex section C.

FOR FURTHER INFORMATION CONTACT: For CBTPA issue, Caroyl Miller, Deputy Chief Textile Negotiator, (202) 395–3026; for pharmaceutical products issue, Paul Moore, Director for Market Access, (202) 395–5656; or Kate Mueller, Assistant General Counsel, (202) 395–3582.

SUPPLEMENTARY INFORMATION: Proclamation 7351 implemented the United States-Caribbean Basin Trade Partnership Act (CBTPA). Section 211 of the CBTPA provides that eligible textile and apparel articles of a designated CBTPA beneficiary country shall enter the United States free of duty and free of quantitative limitations. The annex to Proclamation 7351 made modifications to the HTS in order to implement the tariff treatment provided under the CBTPA. The annex to this notice modifies the annex to Proclamation 7351 to correct two inadvertent errors (see annex sections A and B below) so that the intended tariff treatment is provided.

Proclamation 6763 implemented the trade agreements resulting from the Uruguay Round of multilateral trade negotiations. The annex to Proclamation 6763 made modifications to the HTS in order to implement the tariff treatment provided under the Uruguay Round Agreements, including the tariff treatment provided to pharmaceutical products (see annex to Proclamation 6763 at section 1, paragraph 13). The annex to this notice modifies the annex to Proclamation 7351 to correct one inadvertent omission (see annex section C below) so that the intended tariff treatment is provided.

Proclamation 6969 authorized the USTR to exercise the authority provided to the President under section 604 of the Trade Act of 1974 (19 U.S.C. 2483) to embody rectifications, technical or conforming changes, or similar modifications in the HTS. Under the authority vested in the USTR by proclamation 6969, the rectifications, technical and conforming changes, and similar modifications set forth in sections A and B of the annex to this notice shall be embodied in the HTS with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 2, 2000; those in section C of the annex to this notice shall be embodied in the HTS with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 1995.

Peter F. Allgeier,

Acting United States Trade Representative.

Annex

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 2, 2000, the Harmonized Tariff Schedule of the United States is modified as follows:

A. U.S. note 3(b) to subchapter XX of chapter 98 is modified by deleting ''tapes and labels)'' and by inserting in lieu thereof ''tapes) and labels''.

B. U.S. note 3(d) to subchapter XX of chapter 98 is modified by deleting '', 5401.41.90, '' and by inserting in lieu thereof '', 5402.41.90, ''.

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 1995, the Harmonized Tariff Schedule of the United States is modified as follows:

C. Subheading 2903.47.00 is modified by inserting in alphabetical sequence into the parenthetical expression in the Rates of Duty 1-Special subcolumn the symbol '', K''.

[FR Doc. 02–21916 Filed 8–27–02; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Data Collection Available for Public Comments and Recommendations

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of request for extension of a currently approved information collection.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Department of Transportation's intentions to request approval on a currently approved information collection.

DATES: Comments on this notice should be received by September 27, 2002.

ADDRESSES: Attention Office of the Secretary, Office of International Aviation (X–43), 400 Seventh Street, SW., Washington, DC 20590. Three copies are requested but not required.

FOR FURTHER INFORMATION CONTACT: John Kiser, Office of the Secretary, Office of International Aviation, X–43, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366–2435.

SUPPLEMENTARY INFORMATION:

Title: Tariffs.

OMB Control Number: 2106–0009.

Type of Request: Extension of currently approved information collection.

Description of Respondents: Air carriers filing international tariffs.

Annual Responses: 230.

Average Annual Burden per Respondent: 5700 hours.

Estimated Total Annual Burden on Respondents: 650,000 hours.

Comments are invited on: (a) Whether this collection of information (third party notification) is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on the respondents, including through the use of automated techniques or other forms of information technology.

Issued in Washington, DC, on August 22, 2002.

Michael Robinson,

Program Analyst.

[FR Doc. 02–21918 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Environmental Impact Statement: Mobile County, Alabama

AGENCY: Federal Highway Administrative (FHWA), DoT.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Mobile County, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Wilkerson, Division Administrator, Federal Highway Administration, 500 Eastern Boulevard, Suite 200, Montgomery, Alabama 36117–2018. Telephone: (334) 223–7370.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Alabama Department of Transportation will prepare an environmental impact statement (EIS) for a proposal to construct a ''loop'' around the western side of Mobile from I–10 southwest of the City of Mobile to I–65 north of Mobile. The project would involve the construction of a new multi-lane facility built to ''interstate'' standards and specifications.

The project is considered necessary to provide for the existing and projected traffic demand. Alternatives under consideration include (1) taking no action (2) using alternative travel modes (3) alternative alignments and (4) various design alternatives. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held throughout the planning process. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing. A scoping meeting will be held with agencies interested in the project. 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 at the address 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: August 2, 2002.

Joe Wilkerson,

Division Administrator, Montgomery, Alabama.

[FR Doc. 02–21962 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Hampton & Branchville Railroad Company

[Docket Number FRA–2002–12938]

The Hampton & Branchville Railroad Company (H&B), located in Hampton, North Carolina, seeks a waiver of compliance, docket number FRA–2002–12938, with the requirements of the Locomotive Safety Standards, 49 CFR part 229. Section 229.125(d) of the standards requires each lead locomotive operated at a speed greater then 20 miles per hour over one or more public highway-rail crossings be equipped with operative auxiliary lights in addition to the required headlight. The Hampton & Branchville Railroad states that the speed over their entire line is 20 mph. If the waiver is granted H&B would operate over one crossing at a speed not greater then 25 mph on class II track from mile post 8.75 to mile post 9.25 where ruling grade slows trains speed, without equipping their locomotives with auxiliary lights. H&B states that the crossing is always flagged by a crew member.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2002–12938) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, 400—7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Issued in Washington, DC, on August 23, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–21976 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) parts 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

[Docket Number FRA–2002–12509]

Applicant: Burlington Northern and Santa Fe Railway, Mr. William G. Peterson, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106.

Burlington Northern and Santa Fe Railway (BNSF) seeks approval of the proposed discontinuance and removal of the traffic control system, on the main tracks, between milepost 430.5, near Sapulpa, Oklahoma and milepost 644.1, South Joe Texas, on the Texas Division, Creek and Madill Subdivision, a distance of approximately 213.6 miles, and govern train movements by Track Warrant Control.

The reason given for the proposed changes is that the signal infrastructure on this line is in need of large amounts of replacement capital to fund major rehabilitation. BNSF believes that this

scarce capital would be much better spent on other lines with greater track density. Changing traffic patterns due to merger and track agreements have left this line with locals, rock trains, and only one manifest train daily. The manifest train trains will soon be rerouted over another Subdivision, and the traffic density does not justify the high cost of associated with rehabilitating the signal infrastructure.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on August 20, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–21923 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Iowa Northwestern Railway

[Docket Number FRA–2002–12434]

The Iowa Northwestern Railway proposes to operates a diesel electric locomotive, number IANW 632, with laminated safety glass glazing which is non-compliant with current Federal Safety Regulations. This locomotive, Model C–420, built by the American Locomotive Company (Alco) of Schenectady, New York in 1966 is proposed to operate in limited regular service, less than once per week, on a new shortline railroad the Iowa Northwestern Railway. The locomotive would operate in a rural/suburban area between Allendorf and Superior, Iowa, a distance of 37.3 miles through Dickinson and Osceola Counties. Osceola County is a rural area, with only two out of 13 grade crossings protected by signal lights. Dickinson County is also primarily rural with three out of 27 grade crossings protected by signal lights. The first 32 miles of the IANW are operated as FRA Class II track, with a maximum speed of 25 mph. The remaining 5.3 miles of track are classified by FRA as ''Excepted Track'', and used for car storage.

The IANW requests relief from the requirements of Title 49 Code of Federal Regulations (CFR) § 223.11 Requirements for existing locomotives due to the infrequent use of the locomotive, the rural area of operation, and the cost of installing compliant glazing. Upon researching historical occurrences of vandalism to railway glazing on the branch now operated by the IANW, the Union Pacific Railroad, former owner, indicated to the IANW that no such acts were reported.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2002–12434) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room P1–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Issued in Washington, DC on August 20, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–21921 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Mount Rainier Scenic Railroad

[Docket Number FRA–2001–12512]

The Mount Rainier Scenic Railroad seeks a waiver of compliance from the Inspection and Maintenance Standards for Steam Locomotives, 49 CFR Part 230, published November 17, 1999. Section 230.3(c) of the standards requires steam locomotives having flue tubes replaced prior to September 25, 1995, have a one thousand four hundred seventy-two service day inspection [49 CFR 230.17] performed prior to being allowed to operate under the requirements. The Mount Rainier Scenic Railroad seeks this waiver for one locomotive number HLC Number 17 which had the flue tubes replaced and was returned to service in January 1995. The Mount Rainier Scenic Railroad was not eligible to file a Petition for Special Consideration because their locomotive

was placed into service prior to the September 25, 1995 cutoff date.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2001–12512) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room Pl-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Issued in Washington, DC on August 20, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–21925 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) parts 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

[Docket Number FRA–2002–12838]

Applicant: New Jersey Transit, Mr. William R. Knapp, Vice President and General Manager, Rail Operations, One Penn Plaza East, Newark, New Jersey 07105–2246.

New Jersey Transit (NJT) seeks temporary relief from the requirements of Part 236, Section 236.566, of the Rules, Standard and Instructions, to the extent that NJT be permitted to operate non-equipped New York Susquehanna and Western (NYS&W) steam locomotive number 142, in automatic train control territory on NJT's Raritan Valley Line between Cranford, New Jersey, milepost 15.0 and High Bridge, New Jersey, milepost 52.2, on Saturday and Sunday, September 7 and 8, 2002, in celebration of the City of Dunellen, New Jersey's event, ''Dunellen Railroad Days.'' In addition, NJT seeks temporary relief from the requirements of Section 236.566 to the extent that NJT be permitted to operate non-equipped NYS&W steam locomotive number 142, in automatic train control territory, on NJT's Boonton and Morristown Lines between Jersey City, New Jersey, milepost 3.0 and Hackettstown, New Jersey, milepost 56.9, on Saturday and Sunday, September 28 and 29, 2002, in celebration of the Borough of Lincoln Park, New Jersey's event, ''Lincoln Park Days.''

Applicant's justification for relief: The three NJT lines are equipped with automatic block signals and operate under NORAC Rules 251 and 261, and the steam excursion train movements for each event would be limited to no more than four trips daily, would not exceed 50 mph, and would establish an absolute block ahead of each movement.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 30 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on August 20, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–21924 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) parts 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket No. FRA–2002–12435]

Applicant: Burlington Northern and Santa Fe Railway, Mr. William G. Peterson, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106.

Burlington Northern and Santa Fe Railway seeks approval of the proposed discontinuance and removal of the traffic control system on Main Track No. 1 between Jarales, milepost 894.8 and El Paso Junction, milepost 895.6, New Mexico, on the Southwest Division, Clovis Subdivision. The proposed changes include the establishment of ''restricted limits,'' with restricted aspects into Main Track No. 1 at Jarales and El Paso Junction, and the installation of a hand-operated switch from Main Track No. 1 to the yard.

The reason given for the proposed changes is that the installation of a hand-operated switch into Main Track No. 1 will provide a new route out of the yard as well as a switching lead, and when switching at East End of yard or fueling, access to the yard is closed with the switch in its present location.

Any interested party desiring to protest the granting of an application

shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on August 20, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–21922 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–12730]

Notice of Receipt of Petition for Decision That Nonconforming 2002 Mercedes-Benz Gelaendewagen 5-Door Long Wheel Base Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2002 Mercedes-Benz Gelaendewagen 5-door long wheel base (LWB) multipurpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2002 Mercedes-Benz Gelaendewagen 5-door LWB MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATE: The closing date for comments on the petition is September 27, 2002.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC. of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 2002 Mercedes-Benz Gelaendewagen 5-door LWB MPVs are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 2002 Mercedes-Benz Gelaendewagen 5-door LWB MPVs that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2002 Mercedes-Benz Gelaendewagen 5-door LWB MPVs to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2002 Mercedes-Benz Gelaendewagen 5-door LWB MPVs, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2002 Mercedes-Benz Gelaendewagen 5-door LWB MPVs are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic and Electric Brake Systems,* 106 *Brake Hoses,* 113 *Hood Latch Systems,* 116 *Motor Vehicle Brake Fluids,* 118 *Power Window Systems,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* and 302 *Flammability of Interior Materials.*

Petitioner further contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Replacement of the instrument cluster with the U.S.-model component; (b) replacement of the cruise control lever with a U.S.-model

component on vehicles that are not already so equipped; (c) replacement and initialization of the system to accept the new instrument cluster; and (d) activation of the warning system.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front sidemarker lamps; (b) installation of U.S.-model taillamp assemblies and sidemarker lights; and (c) modification of the high mounted stop lamp if necessary.

Standard No. 111 *Rearview Mirror:* Inscription of the required warning statement on the passenger side rearview mirror or replacement of that mirror with one on which the required statement is already etched.

Standard No. 114 *Theft Protection:* Programming the vehicles to activate the key warning and belt warning systems.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars:* Installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* (a) Reprogramming the seat belt warning systems to activate in the proper manner; (b) inspection of all vehicles upon importation and replacement of the driver's and passenger's side airbags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. The petitioner stated that the vehicles are equipped at the front and rear outboard seating positions with combination lap and shoulder belts that are automatic, self-tensioning, and released by means of a single red push-button, and with a lap belt in the rear center seating position.

Standard No. 301 *Fuel System Integrity:* The petitioner states that compliance with the standard will be achieved through modifications, made only with U.S.-model components, to meet Environmental Protection Agency (EPA) onboard diagnostics (OBDII), onboard vapor recovery (ORVR), fuel spit back, and enhanced fuel evaporation tests. According to the petitioner, these systems will control all fuel leaks in the event of an impact.

The petitioner states that a vehicle identification plate must be affixed near the left windshield post and a reference and certification label must be affixed in the area of the left door post to meet the vehicle identification number (VIN) requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 23, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–21979 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34079]

San Jacinto Rail Limited Construction Exemption and The Burlington Northern and Santa Fe Railway Company Operation Exemption—Build-Out To The Bayport Loop Near Houston, Harris County, TX

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 the construction by San Jacinto Rail Limited and the operation by The Burlington Northern and Santa Fe Railway Company of a 12.8-mile line of railroad serving the Bayport Industrial District in southeast Houston, Harris County, TX, near Galveston Bay. The line will connect the Bayport Loop with the former Galveston, Henderson and Houston Railroad line now owned by Union Pacific Railroad Company near the southeast corner of Ellington Field.

DATES: The exemption is subject to our further consideration of the anticipated environmental impacts of the proposal and will not become effective until the environmental review process is completed. Once that process is completed, the Board will issue a further decision addressing the environmental issues and making the exemption effective at that time, if appropriate, subject to any necessary conditions. Petitions to reopen must be filed by September 17, 2002.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Finance Docket No. 34079, to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of comments to applicants' representatives: (1) Richard E. Weicher, The Burlington Northern and Santa Fe Railway Company, 2500 Lou Menk Drive, Third Floor, Fort Worth Texas, 76131–0039; and (2) Erika Z. Jones, Mayer, Brown, Rowe & Maw, 1909 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Da 2 Da Legal Copy Service, Room 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293–7776. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: August 19, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 02–21548 Filed 8–27–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

[Docket No. TSA–2002–11604]

Security Programs for Aircraft 12,500 Pounds or More

AGENCY: Transportation Security Administration (TSA), DOT.

ACTION: Notice.

SUMMARY: This action establishes a schedule for comments on a security program for operators of aircraft with a maximum certificated takeoff weight of 12,500 or more pounds, and the date on which operators must comply with the security program once it is issued in final form.

DATES: Comments to the proposed security program may be submitted to TSA from August 30 through September 30, 2002.

Security program compliance date: December 1, 2002.

ADDRESSES: Address all comments concerning this action to Nouri Larbi, Aviation Security Regulations and Policy, Room 323, Transportation Security Administration, 800 Independence Avenue, SW., Washington, DC 20591. Please be sure to submit two copies of your comments.

FOR FURTHER INFORMATION CONTACT: Nouri Larbi, telephone: (202) 267–8543, facsimile (202) 267–5359, *nouri.larbi@faa.gov.*

SUPPLEMENTARY INFORMATION: On February 22, 2002, TSA published a final rule in the **Federal Register** (67 FR 8205), known as the ''Twelve-Five Rule,'' that, in part, required new security measures for operators of aircraft with a maximum certificated takeoff weight of 12,500 pounds or more. Under the rule, these operators must adopt and carry out certain security measures approved by TSA, generally known as the ''Twelve-Five Security Program.''

As published, the effective date of the Twelve-Five Rule was June 24, 2002. This document does not alter that date. As discussed below, it is now necessary to establish a date for comments on a proposed security program and a date on which aircraft operators must implement the final TSA-approved Twelve-Five Security Program. Security programs constitute sensitive security information (SSI), which are disclosed only to persons with a need to know, in accordance with 49 CFR part 1520. Therefore, the Twelve-Five Security Program will be distributed for comment only to affected operators.

The twelve-five rule was issued as a no-notice final rule, and so the amount of time allotted for operators to comment on a proposed security plan and for TSA to revise it if necessary has been shorter than usual. In addition, many of the aircraft operators subject to the rule have not been subject to security program requirements in the past, and so they may need more time to develop compliant internal procedures.

TSA has developed a proposed Twelve-Five Security Program and is in the process of providing the proposed Twelve-Five Security Program to these operators. These operators will have thirty days, from August 30 to September 30, to comment on the proposed security program. TSA will consider all comments, revise the program as needed, and issue a final security program by October 31, 2002. The operators must adopt and implement the final security program by December 1, 2002.

It is important to note that the compliance dates established for the other requirements in Docket No. TSA–2002–11604 published in February 2002, are not changed. The compliance date for 49 CFR 1544.230, regarding criminal history records checks for flightcrew members, remains December 6, 2002. *See* § 1544.230(k). The compliance date for § 1544.237, regarding flight deck privileges, remains June 24, 2002.

Issued in Washington, DC, on August 21, 2002.

J.M. Loy,

Acting Under Secretary of Transportation for Security.

[FR Doc. 02–21978 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

[Docket No. TSA–2002–12394]

Security Program for Certain Private Charter Operations

AGENCY: Transportation Security Administration (TSA), DOT.

ACTION: Notice.

SUMMARY: This notice establishes dates for submission of comments on and implementation of a security program for operators of aircraft engaged in private charter passenger operations with a maximum certificated takeoff weight of 95,000 pounds or more.

DATES: Comments may be submitted to TSA from August 30 through September 30, 2002.

Security program compliance date: December 1, 2002.

ADDRESSES: Address all comments concerning this action to Nouri Larbi, Aviation Security Regulations and Policy, Room 323, Transportation Security Administration, 800 Independence Avenue, SW., Washington, DC 20591. Please be sure to submit two copies of your comments.

FOR FURTHER INFORMATION CONTACT: Nouri Larbi, telephone (202) 267–8543, facsimile (202) 267–5359, e-mail *nouri.larbi@faa.gov.*

SUPPLEMENTARY INFORMATION: On June 19, 2002, TSA published a no-notice final rule in the **Federal Register** (67 FR 41635) that, in part, requires new security measures for private charter passenger operators using aircraft with a maximum certificated takeoff weight of 95,000 pounds or more. Under the rule, these operators must adopt and carry out a security program approved by TSA to address passenger and accessible property screening. As published, the effective date of the rule is August 19, 2002, and this document does not change that effective date. For the reasons explained below, it is now necessary to establish a comment period for the proposed program and a date on which affected operators must implement the approved security program.

Security programs constitute sensitive security information (SSI), which can be disclosed only to persons with a need to know, in accordance with 49 CFR part 1520. Therefore, the private charter security program will be distributed for comment only to the affected operators.

Since publication of the rule in June, TSA has received comments and inquiries concerning passenger and accessible property screening on private charter operations. The commenters state that there are a variety of unique characteristics among passenger charter operations that make typical passenger and property screening in an airport terminal difficult or impracticable. For instance, some charters must depart at odd hours when airport terminals are closed. Some charters transport passengers with medical conditions that require equipment that would not be permitted aboard the cabin of a non-2 charter passenger aircraft. Many charters depart from remote locations where screening checkpoints do not exist.

As a result of these comments, TSA will develop a final security program that accommodates the unique characteristics of charter operations and effectively addresses aviation security. Additional time is needed to adequately assess alternative programs and many charter operators will need time to establish appropriate internal screening procedures. The affected operators may comment on TSA's proposed security program from August 30 through September 30, 2002. TSA will review all comments received, revise the program as needed, and issue the final security program on or before October 30, 2002. The affected charter operators will have 30 days, until December 1, 2002, to implement the final security program.

Issued in Washington, DC, on August 21, 2002.

J.M. Loy,

Acting Under Secretary of Transportation for Security.

[FR Doc. 02–21977 Filed 8–27–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 21, 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, Pub. L. 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 September 27, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1467.

Form Number: IRS Forms 9779, 9779(SP), 9783, 9783(SP), 9787, 9787(SP), 9789, 9789(SP), and 12252.

Type of Review: Extension.

Title: Electronic Federal Tax Payment System (EFTPS).

Description: Enrollment is vital to the implementation of the Electronic Federal Tax Payment System (EFTPS). EFTPS is an electronic remittance processing system that the Service will use to accept electronically transmitted federal tax payments. This system is a necessary outgrowth of advanced information and communication technologies.

Respondents: Business or other for-profit, Individuals or households, State, Local or Tribal Government.

Estimated Number of Respondents: 4,471,000.

Estimated Burden Hours Per Respondent:

Form	Response time (in minutes)
Form 9779 (paper)	20
Form 9779 (on line)	20
Form 9779(SP)	20
Form 9783 (paper)	20
Form 9783 (on line)	20
Form 9783 (SP)	20
Form 9787	20
Form 9787(SP)	20
Form 9789	20
Form 9789(SP)	20
Form 12252	10

Frequency of Response: On occasion, Quarterly.

Estimated Total Reporting Burden: 1,490,019 hours.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224. (202) 622–3428.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. (202) 395–7316.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–21836 Filed 8–27–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 21, 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, Pub. L. 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 September 27, 2002, to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0200.

Form Number: ATF F 5110.31.

Type of Review: Extension.

Title: Application and Permit to Ship Puerto Rican Spirits to the United States Without Payment of Tax.

Description: ATF F 5110.31 is used to allow a person to ship spirits in bulk into the U.S. The form identifies the person in Puerto Rico from where shipments are to be made, the person in the U.S. receiving the spirits, amounts of spirits to be shipped, and the bond of the U.S. person to cover taxes on such spirits.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Respondent: 27 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 450 hours.

OMB Number: 1512–0372.

Recordkeeping Requirement ID Number: ATF REC 5400/2.

Type of Review: Extension.

Title: Record and Supporting Data: Daily Summaries, Records of Production, Storage, and Disposition, and Supporting Data by Licensed Explosives Manufacturers and Manufacturers (Limited).

Description: These records, prepared by explosives manufacturers and explosives manufacturers (Limited) provide ATF with the ability to trace explosives used in crimes.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 1,053.

Estimated Burden Hours Per Recordkeeper: 45 minutes.

Frequency of Response: Weekly.

Estimated Total Recordkeeping Burden: 68,835 hours.

OMB Number: 1512–0550.

Recordkeeping Requirement ID Number: 27 CFR 178.92 and 27 CFR 179.102.

Type of Review: Extension.

Title: Notice of Proposed Rulemaking: Identification Markings Placed on Firearms.

Description: These regulations implement Section 923(i) of the Gun Control Act of 1968. In general, these sections require licensed manufacturers and importers to legibly identify firearms by engraving or stamping certain information such as serial numbers.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 2,506.

Estimated Burden Hours Per Recordkeeper: 2 hours.

Frequency of Response: Other (one time).

Estimated Total Recordkeeping Burden: 5,665 hours.

Clearance Officer: Jacqueline White, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226. (202) 927–8930.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. (202) 395–7316.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 02–21837 Filed 8–27–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 30, 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 September 27, 2002 to be assured of consideration.

Departmental Offices/Community Development Financial Institutions (CDFI) Fund

OMB Number: New.

Form Number: CDFI Form 0024.

Type of Review: New collection.

Title: Secondary Market Survey of Community Development Financial Institutions (CDFIs).

Description: The CDFI Fund through a contract with Abt Associates, Inc., is conducting a study of the need for, and feasibility of, developing a secondary market for loans made by CDFIs. A key component of the feasibility study is gathering data through a survey on loans made by CDFIs to determine whether it would be feasible for such loans to be sold in a secondary market and the potential size of the market and to understand the projected capital needs of these institutions to assess whether a secondary market would be beneficial to them.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 325.

Estimated Burden Hours Per Respondent: 5 hours.

Frequency of Response: Other (one-time collection).

Estimated Total Reporting Burden: 1,625 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 02–21932 Filed 8–27–02; 8:45 am]

BILLING CODE 4811–16–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 30, 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 September 27, 2002 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1781.

Form Number: IRS Form 2290–EZ.

Type of Review: Revision.

Title: Heavy Highway Vehicle Use Tax Return for Filers With a Single Vehicle.

Description: Representatives of the motor fuel industry, state governments, and Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminal. Forms 720–TO is an information return that will be used by terminal operators to report their monthly receipts and disbursements of products.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 110,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 4 hr., 3 min.

Learning about the law or the form: 24 min.

Preparing, copying, assembling and sending the form to the IRS: 28 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 544,500 hours.

OMB Number: 1545–1786.

Revenue Procedure Number: Revenue Procedures 2002–37, 2002–38 and 2002–39.

Type of Review: Extension.

Title: Changes in Periods of Accounting.

Description: The collections of information in these three (3) revenue procedures is necessary for the Commissioner to determine whether a taxpayer may properly obtain approval to adopt, change, or retain an annual accounting period.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.

Estimated Number of Respondents: 800.

Estimated Burden Hours Per Respondent: 53 minutes.

Frequency of Response: On occasion, Other (once).

Estimated Total Reporting Burden: 700 hours.

Clearance Officer: Glenn Kirkland (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr. (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 02–21933 Filed 8–27–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 1, 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 September 27, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0939.

Form Number: IRS Form 8404.

Type of Review: Extension.

Title: Interest Charge on DISC-Related Deferred Tax Liability.

Description: Shareholders of Interest Charge Domestic International Sales Corporation (IC-DISCs) use Form 8404 to figure and report an interest charge on their DISC-related deferred tax liability. The interest charge is required by Internal Revenue Code section 995(f). IRS uses Form 8404 to determine whether the shareholder has correctly figured and paid the interest charge on a timely basis.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 2,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—4 hr., 4 min.

Learning about the law or the form—2 hr., 17 min.

Preparing, copying, assembling and sending the form to the IRS—2 hr., 27 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 17,600 hours.

OMB Number: 1545–1201.

Regulation Project Number: PS–52–88 Final.

Type of Review: Extension.

Title: Election to Expense Certain Depreciable Business Assets.

Description: The regulations provide rules on the election described in section 179(b)(4); the apportionment of the dollar limitation among component members of a controlled group; and the proper order for deducting the carryover of disallowed deduction. The recordkeeping and reporting is necessary to monitor compliance with the section 179 rules.

Respondents: Business or other for-profit, Individuals or households, Farms.

Estimated Number of Respondents/ Recordkeepers: 20,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 45 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 15,000 hours.

OMB Number: 1545–1410.

Form Number: IRS Form 8840.

Type of Review: Extension.

Title: Closer Connection Exception Statement for Aliens.

Description: Form 8840 is used by an alien individual, who otherwise meets the substantial presence test, to explain the basis of individual's claim that he or she is able to satisfy the closer connection exception described in Regs. Section 301.7701(b)–2.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 350,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—13 min.

Learning about the law or the form—9 min.

Preparing the form—1 hr., 27 min.

Copying, assembling and sending the form to the IRS—34 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 843,500 hours.

OMB Number: 1545–1501.

Form Number: IRS Form W–4V.

Type of Review: Extension.

Title: Voluntary Withholding Request.

Description: If an individual receives any of the following government payments he/she may voluntary complete Form W–4V to request that the payer withhold Federal income tax. Those payments are unemployment compensation, social security benefits, tier I railroad retirement benefits, Commodity Credit Corporation loans or certain crop disaster payments under the Agricultural Act of 1949 or title II of the Disaster Assistance Act of 1998.

Respondents: Individuals or households, Farms.

Estimated Number of Respondents/ Recordkeepers: 19,700,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—6 min.

Learning about the law or the form—5 min.

Preparing the form—7 min.

Copying, assembling and sending the form to the IRS—10 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 9,653,000 hours.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–3428.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 02–21934 Filed 8–27–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 21, 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 September 27, 2002 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0238.

Form Number: IRS Form W–2G.

Type of Review: Extension.

Title: Certain Gambling Winnings.

Description: Internal Revenue Code (IRC) section 6041 requires payers of certain gambling winnings to report them to IRS. If applicable, section 3402(g) and section 3406 require tax withholding on these winnings. We use the information to ensure taxpayer income reporting compliance.

Respondents: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 6,400.

Estimated Burden Hours Per Respondent: 18 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1,272,479 hours.

Clearance Officer: Glenn Kirkland (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW.,Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 02–21936 Filed 8–27–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Secret Service

Appointment of Performance Review Board (PRB) Members

The notice announces the appointment of members of the Senior Executive Service Performance Review Boards in accordance with 5 U.S.C. 4314(c)(4) for the rating period beginning October 1, 2001, and ending September 30, 2002. Each PRB will be composed of at least three of the Senior Executive Service members listed below.

Name and Title

Carlton D. Spriggs—Deputy Director, U.S. Secret Service
George D. Rodgers—Assistant Director, Investigations (USSS)
Donald A. Flynn—Assistant Director, Protective Operations (USSS)
Barbara S. Riggs—Assistant Director, Protective Research (USSS)
Stephen T. Colo—Assistant Director, Administration (USSS)
H. Terrence Samway—Assistant Director, Inspection (USSS)
Patrick C. Miller—Assistant Director, Human Resources & Training (USSS)
Paul D. Irving—Assistant Director, Government & Public Affairs (USSS)
John J. Kelleher—Chief Counsel (USSS)

FOR FURTHER INFORMATION CONTACT: Sheila M. Lumsden, Chief, Personnel Division, 950 H St., NW., Suite 7400, Washington, DC 20223, Telephone No. (202) 406–5307.

Brian L. Stafford,

Director.

[FR Doc. 02–21895 Filed 8–27–02; 8:45 am]

BILLING CODE 4810–42–M

Federal Register

Wednesday,
August 28, 2002

Part II

The President

Proclamation 7584—Women's Equality Day, 2002

Federal Register
Vol. 67, No. 167
Wednesday, August 28, 2002

Presidential Documents

Title 3—

The President

Proclamation 7584 of August 23, 2002

Women's Equality Day, 2002

By the President of the United States of America

A Proclamation

Today, American women enjoy unprecedented opportunities in business, education, politics, and countless other aspects of our society. Historically, however, women suffered grave inequalities and were denied some of the most fundamental benefits of citizenship.

Each year on August 26th, we mark the important anniversary of the day on which women gained the right to vote. In celebrating Women's Equality Day, we remember the brave and determined individuals who worked to ensure that all women have the opportunity to participate in our democracy. Their dedication to the suffrage movement improved our society, and continues to inspire women today.

When the first Women's Rights Convention was convened in Seneca Falls in 1848, women in the United States had limited financial, legal, and political power. In addition to being denied the right to vote, they also could not own property, control their wages, or claim custody of their children.

Courageous heroes like Carrie Chapman Catt, Alice Paul, Elizabeth Cady Stanton, and Susan B. Anthony refused to accept women's status, and began a determined struggle to gain suffrage for women. Leading active and vocal groups like the National American Woman Suffrage Association and the National Woman's Party, these women risked attack and arrest to organize marches, boycotts, and pickets, while mobilizing an influential lobbying force of millions. Finally, on August 26, 1920, the women's suffrage movement accomplished its goal through the ratification of the 19th Amendment to the Constitution, guaranteeing women the right to vote.

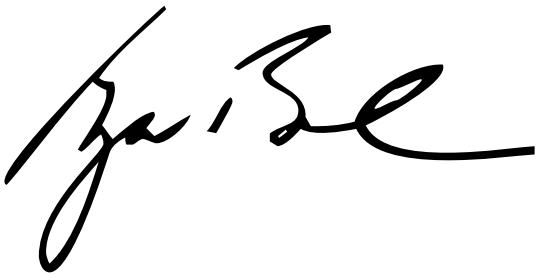
In Afghanistan, the Taliban used violence and fear to deny Afghan women access to education, health care, mobility, and the right to vote. Our coalition has liberated Afghanistan and restored fundamental human rights and freedoms to Afghan women, and all the people of Afghanistan. Young girls in Afghanistan are able to attend schools for the first time.

As we celebrate this day, I encourage all Americans to learn about our important achievements in equality. Looking to the future, we must remain diligent as we work to ensure the rights of all of our citizens, and to support those who struggle daily for life's basic liberties.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 26, 2002, as Women's Equality Day. I call upon the people of the United States to observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of August, in the year of our Lord two thousand two, and of the

Independence of the United States of America the two hundred and twenty-seventh.



[FR Doc. 02–22163
Filed 8–27–02; 8:45 am]
Billing code 3195–01–P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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