participate in committee deliberations on all issues. Like all committee meetings, the May 1, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. This action imposes no additional reporting or recordkeeping requirements on either small or large 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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on June 25, 2002 (67 FR 42707). Copies of that rule were made available to all nectarine growers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on August 26, 2002, and no comments were received.

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.

After consideration of all relevant material presented, including the information and recommendation submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 916

Nectarines, Marketing agreements, Reporting and recordkeeping requirements.

PART 916—NECTARINES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 916 which was published at 67 FR 42707 on June 25, 2002, is adopted as a final rule without change.

Dated: September 11, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–23550 Filed 9–16–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Docket No. FV02–955–1 FIR]

Vidalia Onions Grown in Georgia; Revision of Reporting and Assessment Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule revising the reporting and assessment requirements prescribed under the marketing order for Vidalia onions grown in Georgia (order). The order regulates the handling of Vidalia onions grown in Georgia, and is administered locally by the Vidalia Onion Committee (Committee). This rule continues in effect the change from monthly shipment reporting to weekly reporting. It also continues in effect changes in when assessments are due and how delinquent assessments are handled. This rule provides the industry with more accurate and timely shipment and supply information and facilitates the collection of assessments.

EFFECTIVE DATE: October 17, 2002.

FOR FURTHER INFORMATION CONTACT: William Pimental, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, FL 33884–1671; telephone: (863) 324–3375, Fax: (863) 325–8793; 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 and Order No. 955, (7 CFR part 955), regulating the handling of Vidalia onions grown in Georgia, 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.''

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule 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 continues in effect changes to the reporting and assessment requirements prescribed under the order. This rule continues in effect the change from monthly shipment reporting to weekly reporting. It also continues in effect changes in when assessments are due and how delinquent assessments are handled. This rule provides the industry with more accurate and timely shipment and supply information and facilitates assessment collection. The Committee unanimously recommended these changes at a meeting held on December 6, 2001.

Section 955.60 of the order provides authority for the Committee to require handlers to file reports and provide other information as may be necessary for the Committee to perform its duties. Section 955.101 of the regulations provides the requisite reporting requirements. Previously, handlers were required to file monthly reports including the name and address of the handler, the period covered in the report, the total Vidalia onions received by the handler, and the handler's total fresh market shipments.

Section 955.42 provides the authority for the formulation of an annual budget of expenses and the collection of assessments from handlers to administer

the order. Section 955.42(f) provides the authority to impose a late payment charge or an interest charge or both, on any handler who fails to pay assessments in a timely manner and the authority to establish the time and rate of such charges. Section 955.142 of the rules and regulations outlines the procedures for applying interest charges to delinquent assessments.

This rule continues in effect revisions to § 955.101 requiring handlers to file shipping reports on a weekly, rather than a monthly, basis. This rule also continues in effect revisions to § 955.142, specifying when assessments are due and adjusting the way interest is applied to delinquent assessments.

Previously, § 955.101 required handlers to provide the Committee with information regarding the volume of Vidalia onions they received and shipped during each month of the shipping season. The shipping reports were to be filed no later than seven days after the end of each shipping month. The Committee provided a form to assist handlers with supplying the required shipping information. The main fresh shipping season for Vidalia onions generally runs from April through June. However, over the past 10 years, the industry has developed and refined Controlled Atmosphere (CA) storage, allowing Vidalia onions to be shipped throughout the year.

When the reporting requirement was originally implemented following the promulgation of the order in 1990, the Committee believed the best method for obtaining shipment data was by requiring handlers to report their volume of fresh market shipments at the end of each week. However, after the order had been in operation for a few seasons, the Committee found that many handlers considered weekly reporting too cumbersome. In the early 1990's, many Vidalia onion growers and handlers were small family operations. These operations did not pack large quantities or only packed for a limited time. Assessments owed were relatively small, and the industry found weekly reporting unnecessary and burdensome. Consequently, the Committee recommended a change to monthly reporting in 1993 (January 13, 1994, 59 FR 1896).

In the early years of the order, if a handler missed a report and owed assessments for a short period of time, it did not create a significant problem. The entities were small and the volumes shipped and the assessment amounts owed were often minimal. However, the Vidalia onion industry has grown from approximately 3,700 acres in 1989, to approximately 15,000 acres in 2001, producing a much larger volume of Vidalia onions. With advances in farming technology and changes in farm size, many smaller entities became part of larger enterprises or sell their onions to large handling operations rather than handle the onions themselves. These large operations can pack a considerable volume of Vidalia onions in a short amount of time. Under monthly reporting, the volumes shipped and assessments owed by a single handler can now be significant.

The Committee uses the information in the shipment reports to improve decision-making and program administration with regard to marketing research, market development, and promotional activities. The more accurate the information obtained from handlers, the more precise the Committee can be in adjusting its marketing research and promotion efforts. The shipment information is also provided to the industry on a composite basis to aid growers and handlers in planning their individual operations and in making marketing decisions during the season.

The reports are also used by the Committee to calculate the assessments owed by each handler. These reports are the Committee's best source for industry shipping data. Because these reports are so closely tied to industry information and assessment collection, it is imperative that the reports be both timely and accurate. Timely reports translate into information that is more exact and current and helps expedite the collection of assessments. However, the Committee had been experiencing problems receiving timely reports from some handlers. With handling operations increasing in size, delays in receiving reports were magnifying the industry's information and assessment collection problems because of the volume shipped and assessments owed.

With handlers failing to file reports in a timely manner, the composite reports the Committee issues on this shipping data were compromised. Delayed reporting made available industry information inaccurate. In some years, the Committee had not received accurate monthly pack-out figures until the end of the season. Consequently, Committee reports based on this data were of limited value to the industry. In addition, in this time of rapidly changing markets, monthly reports offer handlers little insight into current market conditions. Because of these things, there was no reliable information regarding the amount of Vidalia onions in the current channels of commerce. Without good information regarding the supply of Vidalia onions available in the market, the pipelines became full, driving down prices.

Delayed reporting also effected assessment collection. The Committee needs accurate and timely reporting to calculate and collect assessments due. Late reporting can lead to late assessment payments and corresponding interest charges on these late payments. If the handler has a small operation, this problem has little impact on the overall Committee budget. However, with the size of handler operations increasing, a larger handler can affect the Committee's cash flow and budget by falling behind in its reporting and with the corresponding assessment payments. This could force the Committee to delay, reduce, or eliminate projects due to lack of financial resources. The Committee does have the authority to go to lending institutions for operating capital, but prefers not to incur debt or the accompanying interest expense. Thus, it is important that reports and assessments be forwarded in a timely manner.

To address these problems, the Committee voted unanimously to change the reporting requirement from monthly reporting to weekly reporting. Under this change, the shipping week is defined as Monday through Sunday. Reports for each shipping week are due no later than 4 p.m. on Tuesday of the following week. Handlers are required to file reports for each season, with each new season beginning January 1. Handlers begin reporting the first week of the season in which they have shipments. In weeks when no shipments are made the handler is still required to file a report indicating that they had zero shipments. This continues until the handler files a final report for the season. The reporting form provided by the Committee has a space for the handler to indicate when they are filing their final report.

The Committee believes this change reduces the problems with late reporting and delinquent assessments. This change gives Committee staff an earlier indication of potential problems. By identifying these potential problems sooner, the Committee staff can address them in a shorter period than under the monthly reporting requirement and before the volumes and assessments due grow to significant amounts.

Weekly reporting compresses the reporting window and helps accelerate the compliance process. Identifying handlers that are not reporting can now be measured in weeks rather than months. With weekly reporting, the Committee's compliance officer has a better indication of which operating

handlers are filing timely reports and can concentrate compliance efforts on non-reporting handlers. A quicker response to potential compliance problems should help reduce reporting delays. Therefore, this change improves industry reporting and helps the Committee staff more accurately track industry shipments.

The Committee believes weekly reporting also improves the accuracy and benefits of their composite reports. Handlers receive more accurate information regarding industry shipments and in a timelier manner. With a shipping week of Monday through Sunday, handlers are required to file reports no later than 4 p.m. on Tuesday following the week shipments were made. The Committee assembles composite reports by Wednesday and distributes them to handlers. Consequently, handlers have information on shipments and the supply of onions on the market on a timelier basis.

Having weekly shipping data provides a clearer picture of market conditions and affords better information regarding the balance of supply and demand. This is expected to help handlers better address market swings, reduce market gluts, and increase grower returns.

Because reporting and assessments are tied closely, the Committee believes this change also helps expedite the collection of assessments. Reducing the volume of delayed reporting provides the Committee with better, timelier information on which to determine assessments due. As with the filing of reports, the Committee staff has an earlier indication under weekly reporting of those handlers that are not paying their assessments in a timely manner. Again, the earlier a problem can be identified, the quicker it can be addressed and compliance and collection efforts can be started.

Timely reports are important for both accurate reports and assessment collection. Therefore, the Committee recommended that the shipment reporting requirement in § 955.101 be changed from monthly reporting to weekly reporting.

In addition, this rule continues in effect revisions to § 955.101, to add information being reported by handlers but that was not specified in the provisions. Under the revised provisions, handlers report their name and address, the period covered by the report, the total onions received by the handler, the total fresh market onions shipped, as well as the amount of shipments from their own acreage, their total assessments due, the amount of onions sold, the volume of onions packed under contract for another handler and the handler name(s), onions sold to another handler, and information on onions placed in Controlled Atmosphere storage.

This rule also continues in effect revisions to the rules and regulations regarding the handling of delinquent assessments. Section 955.142 had stated that each handler must pay interest charges of 1 percent per month on any unpaid assessments levied, and on any accrued unpaid interest beginning thirty days after the date of billing, until the delinquent handler's assessment plus applicable interest had been paid in full. This rule continues in effect changes specifying when assessments are due from handlers and adjusting the way interest is applied to delinquent assessments.

Under past requirements, a handler reported shipments at the end of each month. The handler could then request to be billed for the assessments due on those shipments reported. The handler could further delay payment by holding the bill until the Committee sent a follow-up letter. This created budgeting problems and angered those handlers paying on time.

To make the collection of assessments easier, timelier, and more cost-effective, the Committee voted to revise § 955.142 by making assessments due at the time when the handler's shipping volume is required to be reported. With the change to weekly reporting, assessments are paid on a weekly basis for each week of shipments. Assessments are now due no later than 4 p.m. on Tuesday for those shipments made the previous week (Monday through Sunday). The option to request billing for assessments is no longer available.

This change makes it easier to collect assessments. It is no longer necessary to keep track of who has paid, and who needs to be billed. Each handler's assessments are collected the same way and are due at the same time. With this change, the Committee also receives its money in a timelier manner. Rather than having to submit a bill and wait for payment, payment is due immediately on the date when the weekly shipments are required to be reported. This change also saves the Committee money by reducing mailing costs associated with having to bill handlers for assessments.

This change also improves the Committee's cash flow. Rather than lump sum payments at the end of the season or large monthly collections, assessment income is received each week of the shipping season.

Therefore, the Committee voted that § 955.142 be changed so assessments are due no later than 4 p.m. on the Tuesday immediately following the week in which the shipments were made, at the same time weekly reports are due.

Finally, this rule continues in effect revisions to § 955.142 that adjust the way interest charges are applied to delinquent assessments. Previously, § 955.142 specified that handlers must pay interest of 1 percent per month on any unpaid assessments and on any accrued unpaid interest beginning thirty days after the date of billing. The Committee recommended changing this language so that interest accrues at 1 percent per week on any unpaid assessments and any accrued unpaid interest beginning with the day the assessments were due until the delinquent handler's assessment plus applicable interest has been paid in full. Consequently, interest begins accruing on delinquent assessments on the Wednesday immediately following the Tuesday when the assessments were due.

The Committee also voted to increase the interest charged to encourage handlers to pay on time. In the past, some handlers waited until the end of the season to pay their assessments, in a way, forcing the Committee to basically loan them the assessment money.

This change provides more incentive for handlers to pay in a timely manner. The additional interest charge also helps compensate the Committee for the extra effort and expenditures required to collect the late assessments. This change is expected to improve assessment collection, provide more timely payments, reduce compliance costs, and reduce the need for the Committee to borrow operating funds.

The Committee has been looking for ways to improve the timeliness of reports and the payment of assessments. The Committee believes these changes help address these issues.

Final 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 final 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 the rules issued thereunder, 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 133 producers of Vidalia onions in the production area and approximately 109 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms, which include handlers, are defined as those whose annual receipts are less than $5,000,000.

Based on the Georgia Agricultural Statistical Service and Committee data, the average annual grower price for fresh Vidalia onions during the 2001 season was $13.75 per 50-pound bag. Total Vidalia onion shipments for the 2001 season were around 3,592,200 50-pound bags. Using available data, about 97 percent of Vidalia onion handlers could be considered small businesses under the SBA definition. In addition, based on acreage, production, grower prices as reported by the National Agricultural Statistics Service, and the total number of Vidalia onion growers, the average annual grower revenue is below $750,000. In view of the foregoing, it can be concluded that the majority of handlers and producers of Vidalia onions may be classified as small entities.

The Committee had not been receiving timely reports from some handlers. With handling operations increasing in size, this had a negative impact on both industry information and assessment collection because the quantities shipped and assessments owed by some delinquent handlers were significant. This rule continues to revise § 955.101, requiring handlers to file shipping reports on a weekly basis rather than monthly and increases the information requested. This rule also continues to revise § 955.142, specifying when assessments are due and adjusting the way interest is applied to delinquent assessments. By identifying problems sooner, they can be addressed in a shorter period than under monthly reporting and before the volumes and assessments due grow to significant amounts. This rule also encourages handlers to report and pay their required assessments in a timely manner to avoid increased interest charges and other compliance activities. These changes should help reduce the problems with late reporting and assessment collection and provide more accurate information on shipments and supply. Authority for these actions is provided in §§ 955.42 and 955.60 of the order. The Committee unanimously recommended these changes at a December 6, 2001, meeting.

With weekly reporting, the Committee has more accurate and timely information regarding industry shipments. Having this information and the resulting reports helps both the Committee and the industry make better decisions.

This rule offers the potential for cost savings. Under this change, the Committee and the industry have access to more current information. The Committee is able to use this data when considering marketing research and promotion funding and activities. The industry can use the information to improve marketing decisions. Having access to information that is more current should help the industry balance supply with demand, thus reducing periods of oversupply and price variations. Even the slightest increase in price would more than compensate for any costs related to these changes.

These changes also are expected to reduce assessment collection costs for the Committee. By removing the option to be billed for assessments, the Committee is saving both employee time and postage. This rule may also lower compliance costs for the Committee. By reducing the number of handlers that are reporting late, the Committee cuts costs associated with identifying these handlers. This should decrease the overall number of compliance cases.

In addition, increasing the interest applied to late assessments helps curtail the volume of delinquent assessments. Such a reduction also eases staff and mailing costs directed toward collecting past due assessments.

This rule will have a positive impact on affected entities. The changes were recommended to improve available industry information, facilitate assessment collection, and to reduce costs. The availability of more timely and accurate industry information will benefit both large and small handling operations. The changes this rule makes in terms of assessment collection mean that all handlers are assessed the same way, with their assessments due at the same time. The reduction in Committee costs is also expected to benefit all handlers regardless of their size. Consequently, the opportunities and benefits of this rule are expected to be equally available to all.

An alternative to the actions recommended by the Committee was considered prior to making the final recommendations. The alternative considered was implementing a mandatory inspection program under the marketing order. However, the Committee recognized this alternative would require amending the order and take further time to implement. While not ruling out this alternative in terms of future action, the Committee believed the recommended actions give them a more timely solution while they consider other alternatives.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS obtained emergency approval for a new information collection request under OMB No. 0581–NEW for Vidalia Onions Grown in Georgia, Marketing Order No. 955. The emergency request was necessary because insufficient time was available to follow normal clearance procedures. This information collection will be merged with the forms currently approved for use under OMB No. 0581–0178 ''Vegetable and Specialty Crops'', and replaces the existing FV–181 ''Vidalia Onion Handler Report Form.''

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. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

The Committee's meeting was widely publicized throughout the Vidalia onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 6, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on June 20, 2002. Copies of the rule were mailed by the Committee's staff to all Committee members and Vidalia onion handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 60-day comment period, which ended August 19, 2002. No comments were received.

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.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that

finalizing the interim final rule, without change, as published in the **Federal Register** (67 FR 41811, June 20, 2002) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 955

Onions, Marketing agreements, Reporting and recordkeeping requirements.

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

Accordingly, the interim final rule amending 7 CFR part 955 which was published at 67 FR 41811 on June 20, 2002, is adopted as a final rule without change.

Dated: September 11, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–23551 Filed 9–16–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 155 and 156

46 CFR Part 32

[USCG–2001–9046]

RIN 2115–AG10

Tank Level or Pressure Monitoring Devices

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In December of 2000, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the Coast Guard must promulgate a regulation for tank vessels to use tank level or pressure monitoring (TLPM) devices as mandated by the Oil Pollution Act of 1990 (OPA 90). The Coast Guard is implementing regulations to include minimum standards for the performance and use of TLPM devices on single-hull tank ships and single-hull tank barges carrying oil or oil residue as cargo.

DATES: This final rule is effective October 17, 2002.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2001–9046 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Martin L. Jackson, Project Manager, Standards Evaluations and Analysis Division (G–MSR–1), Coast Guard, at 202–267–1140. For technical questions concerning the performance standards for TLPM devices call Dolores Mercier, Technical Program Manager, Engineering Systems Division (G–MSE–3), Coast Guard, telephone 202–267–0658. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Oil Pollution Act of 1990 (OPA 90) Public Law 101–380, directed the Coast Guard to promulgate a number of regulations, including a variety of standards for the design and operation of equipment to reduce the number and severity of tank vessel oil spill incidents. Section 4110 of OPA 90 mandates that the Coast Guard: (1) Establish standards for devices that measure oil levels in cargo tanks or devices that monitor cargo tank pressure level, and (2) issue regulations establishing requirements concerning the use of these devices on tank vessels carrying oil or oil residue as cargo. Functionally, these tank level or pressure monitoring (TLPM) devices measure changes in cargo volume, thereby detecting possible oil leaks into the marine environment.

In May of 1991, the Coast Guard published in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPRM)(56 FR 21116) that solicited public comments relating to TLPM devices on tank vessels carrying oil. We received 20 comments.

In August of 1992, the Volpe National Transportation Systems Center completed a feasibility study (Volpe study) on TLPM devices. Then, in January of the following year, we made this study available to the public for comment by publishing a notice of availability (58 FR 7292).

As announced in a notice of public meeting (59 FR 58810), we held a public meeting at Coast Guard Headquarters in December of 1994 to discuss this rulemaking. This meeting gave the public an opportunity to provide further input into the development of the proposed regulations. As a result of the public meeting nine comments were received.

In 1995, we proposed a regulation that set minimum standards for leak detection devices (60 FR 43427). Upon review of the Volpe study and the risks of oil spills, we determined that the minimum detection threshold for such devices should be the lesser of either 0.5 percent below the quantity to which the tank was loaded or 1,000 gallons, which matched the criteria for an inland medium and coastal minor oil spill. This notice of proposed rulemaking received 10 comments.

In 1997, we published a temporary rule [62 FR 14828 (March 28, 1997)] establishing the minimum standards for TLPM devices. In the temporary rule, we requested the submission of TLPM devices that could meet the performance standard set out in the rule. The Coast Guard would have evaluated the submitted TLPM devices to ensure that they met the performance standards required by the temporary rule. We would have assessed the costs and benefits associated with any devices that met this performance standard to support decisions regarding implementing use requirements. At the time the rule expired in April 1999, no devices had been submitted to us for evaluation.

In 1999, Bluewater Network and Ocean Advocates brought suit in the U.S. Court of Appeals for the District of Columbia Circuit. In their suit, the petitioners asked the Court for a Writ of Mandamus ordering us to promulgate TLPM regulations. In December of 2000, the Court agreed with the petitioners on this item and directed the Coast Guard to promptly promulgate regulations setting TLPM standards and requiring use of TLPM on tank vessels.

On October 1, 2001, we published a notice of proposed rulemaking (NPRM) entitled Tank Level or Pressure Monitoring Devices in the **Federal Register** (66 FR 49877). Within that notice of proposed rulemaking, we presented a minimum performance standard and eight proposed regulatory options, and corresponding regulatory text for each option, regarding the use of TLPM devices on single-hull tank ships and single-hull tank barges carrying oil as cargo. A public meeting was held on November 6, 2001, in Washington, DC. As a result of the notice and public meeting, we received 129 letters commenting on the proposal.

Background and Purpose

The purpose of TLPM devices is to reduce the size and impact of oil spills by alerting the tank vessel operator that an accidental discharge of cargo oil is occurring. In the NPRM [October 1, 2001 (66 FR 49877)], the Coast Guard