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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 00–115–3]

Specifically Approved States Authorized To Receive Mares and Stallions Imported From Regions Where CEM Exists

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule; establishment and confirmation of new effective date.

SUMMARY: We are notifying the public of a change in the effective date of a direct final rule that amends our animal import regulations to add Oregon to the list of States approved to receive certain mares and stallions from regions affected with contagious equine metritis. The direct final rule was originally scheduled to become effective on February 16, 2001; however, on February 5, 2001, we published a document in the **Federal Register** that temporarily delayed the effective date by 60 days in order to give Department officials the opportunity for further review and consideration of the new regulations, consistent with the Assistant to the President's memorandum, "Regulatory Review Plan," of January 20, 2001. Department officials have completed their review of the direct final rule and have determined that the rule may be made effective without further delay.

EFFECTIVE DATE: February 16, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Karen James, Assistant Director, National Center for Import and Export, Technical Trade Services, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8364.

SUPPLEMENTARY INFORMATION: On December 18, 2000, the Animal and Plant Health Inspection Service published in the **Federal Register** (65 FR 78897–78899, Docket No. 00–115–1) a direct final rule notifying the public of our intention to amend the animal importation regulations in 9 CFR part 93 by adding Oregon to the lists of States approved to receive certain mares and stallions imported into the United States from regions affected with contagious equine metritis (CEM). In that document, we stated that the direct final rule would become effective on February 16, 2001, unless we received written adverse comments or written notice of intent to submit adverse comments in response to the direct final rule by January 17, 2001. We did not receive any written adverse comments or written notice of intent to submit adverse comments, so we were prepared to confirm the February 16, 2001, effective date.

However, on February 5, 2001, we published a document in the **Federal Register** (66 FR 8887, Docket No. 00–115–2) informing the public that we were temporarily delaying for 60 days the effective date of the rule. That action was taken in accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," which was published in the **Federal Register** on January 24, 2001 (66 FR 7701–7702). As we explained in our February 5, 2001, document, the temporary 60-day delay in effective date was necessary to give Department officials the opportunity for further review and consideration of new regulations, as directed by the memorandum of January 20, 2001.

Department officials have completed their review and consideration of our December 18, 2000, direct final rule and have determined that the rule may be made effective without further delay. Therefore, this document serves to establish and confirm February 16, 2001, as the effective date for the direct final rule adding Oregon to the lists of States approved to receive certain mares and stallions imported into the United States from regions affected with CEM that was published in the **Federal Register** on December 18, 2000, at 65 FR 78897–78899.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

The rule adds Oregon to the lists of States approved to receive certain mares and stallions imported into the United States from regions affected with CEM. We are taking this action because Oregon has entered into an agreement with the Administrator of the Animal and Plant Health Inspection Service to enforce its State laws and regulations to control CEM and to require inspection, treatment, and testing of horses, as required by Federal regulations, to further ensure the horses' freedom from CEM. This action relieves unnecessary restrictions on the importation of mares and stallions from regions where CEM exists. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon signature.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 16th day of February 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–4392 Filed 2–21–01; 8:45 am]

BILLING CODE 3410–34–U

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T]

Credit by Brokers and Dealers; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Foreign Margin Stocks (Foreign List) is composed of certain foreign equity securities that qualify as *margin securities* under Regulation T. The Foreign List is published twice a year by the Board.

EFFECTIVE DATE: March 1, 2001.

FOR FURTHER INFORMATION CONTACT: Peggy Wolfrum, Financial Analyst,

Division of Banking Supervision and Regulation, (202) 452-2837, or Scott Holz, Senior Counsel, Legal Division, (202) 452-2966, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Listed below is a complete edition of the Board's Foreign List. The Foreign List was last published on August 24, 2000 (65 FR 51519), and became effective September 1, 2000.

The Foreign List is composed of foreign equity securities that qualify as margin securities under Regulation T by meeting the requirements of § 220.11(c) and (d). Additional foreign securities qualify as margin securities if they are deemed by the Securities and Exchange Commission (SEC) to have a "ready market" under SEC Rule 15c3-1 (17 CFR 240.15c3-1) or a "no-action" position issued thereunder. This includes all foreign stocks in the FTSE World Index Series.

It is unlawful for any creditor to make, or cause to be made, any representation to the effect that the inclusion of a security on the Foreign List is evidence that the Board or the SEC has in any way passed upon the merits of, or given approval to, such security or any transactions therein. Any statement in an advertisement or other similar communication containing a reference to the Board in connection with the Foreign List or the stocks thereon shall be an unlawful representation.

There are no additions to the Foreign List. The following four stocks are being removed because they no longer substantially meet the provisions of § 220.11(d) of Regulation T:

Aiwa Co., Ltd.

¥50 par common

Japan Securities Finance Co., Ltd.

¥50 par common

Saibu Gas Co., Ltd.

¥50 par common

Yodogawa Steel Works, Ltd.

¥50 par common

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Foreign List specified in § 220.11(c) and (d). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with

the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of the Foreign List as soon as possible. The Board has responded to a request by the public and allowed approximately a one-week delay before the Foreign List is effective.

List of Subjects in 12 CFR Part 220

Brokers, Credit, Margin, Margin requirements, Investments, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 220.2 and 220.11, there is set forth below a complete edition of the Foreign List.

Japan

Akita Bank, Ltd.

¥50 par common

Aomori Bank, Ltd.

¥50 par common

Asatsu-DK Inc.

¥50 par common

Bandai Co., Ltd.

¥50 par common

Bank of Nagoya, Ltd.

¥50 par common

Chudenko Corp.

¥50 par common

Chugoku Bank, Ltd.

¥50 par common

Clarion Co., Ltd.

¥50 par common

Daihatsu Motor Co., Ltd.

¥50 par common

Dainippon Screen Mfg. Co., Ltd.

¥50 par common

Denki Kagaku Kogyo

¥50 par common

Eighteenth Bank, Ltd.

¥50 par common

Futaba Corp.

¥50 par common

Futaba Industrial Co., Ltd.

¥50 par common

Higo Bank, Ltd.

¥50 par common

Hitachi Construction Machinery Co., Ltd.

¥50 par common

Hitachi Software Engineering Co., Ltd

¥50 par common

Hitachi Transport System, Ltd.

¥50 par common

Hokkoku Bank, Ltd.

¥50 par common

Hokuetsu Bank, Ltd

¥50 par common

Hokuetsu Paper Mills, Ltd.

¥50 par common

Iyo Bank, Ltd.

¥50 par common
Japan Airport Terminal Co., Ltd.

¥50 par common

Juroku Bank, Ltd.

¥50 par common

Kagoshima Bank, Ltd.

¥50 par common

Kamigumi Co., Ltd.

¥50 par common

Katokichi Co., Ltd.

¥50 par common

Keisei Electric Railway Co., Ltd.

¥50 par common

Keiyo Bank, Ltd.

¥50 par common

Kiyo Bank, Ltd.

¥50 par common

Komori Corp.

¥50 par common

Konami Co., Ltd.

¥50 par common

Kyowa Exeo Corp.

¥50 par common

Matsushita Seiko Co., Ltd.

¥50 par common

Max Co., Ltd.

¥50 par common

Michinoku Bank, Ltd.

¥50 par common

Musashino Bank, Ltd.

¥500 par common

Namco, Ltd.

¥50 par common

Nichicon Corp.

¥50 par common

Nihon Unisys, Ltd.

¥50 par common

Nippon Comsys Corp.

¥50 par common

Nippon Trust Bank, Ltd.

¥50 par common

Nishi-Nippon Bank, Ltd.

¥50 par common

Nishi-Nippon Railroad Co., Ltd.

¥50 par common

Nissan Chemical Industries, Ltd.

¥50 par common

Ogaki Kyoritsu Bank, Ltd.

¥50 par common

Q.P. Corp.

¥50 par common

Rinnai Corporation

¥50 par common

Ryosan Co., Ltd.

¥50 par common

Sagami Railway Co., Ltd.

¥50 par common

Sakata Seed Corp.

¥50 par common

Santen Pharmaceutical Co., Ltd.

¥50 par common

Shimadzu Corp.

¥50 par common

Shimamura Co., Ltd.

¥50 par common

Sumitomo Rubber Industries, Ltd.

¥50 par common

Taiyo Yuden Co., Ltd.

¥50 par common

Takara Standard Co., Ltd.
 ¥50 par common
 Takuma Co., Ltd.
 ¥50 par common
 Toho Bank, Ltd.
 ¥50 par common
 Toho Gas Co., Ltd.
 ¥50 par common
 Tokyo Ohka Kogyo Co., Ltd.
 ¥50 par common
 Tokyo Tomin Bank, Ltd.
 ¥500 par common
 Uni-Charm Corp.
 ¥50 par common
 Ushio, Inc.
 ¥50 par common
 Yamaha Motor Co., Ltd.
 ¥50 par common
 Yamanashi Chuo Bank, Ltd.
 ¥50 par common

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), February 15, 2001.

Jennifer J. Johnson,
Secretary of the Board.
 [FR Doc. 01-4360 Filed 2-21-01; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NM-256-AD; Amendment 39-12121; AD 2001-04-03]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD),

applicable to certain EMBRAER Model EMB-145 series airplanes, that requires inspection of the bolts on the hinge fittings that attach the spring tab and the servo tab to the rear spar of the elevators for evidence of loosening; inspection of the region of the hinge fittings on the spring tab for interference of the bonding jumpers attached to the hinge fittings with the leading edge of the spring tab; and corrective action, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign airworthiness authority. The actions specified by this AD are intended to prevent the spring tab or the servo tab from becoming disconnected, resulting in structural failure. The action is also intended to prevent damage to the leading edge of the spring tab, which could result in loss of control of the elevator.

DATES: Effective March 29, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 29, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Viswa Padmanabhan, Aerospace Engineer, ACE-117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite

450, Atlanta, Georgia 30349; telephone (770) 703-6049; fax (770) 703-6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB-145 series airplanes was published in the **Federal Register** on December 8, 2000 (65 FR 76950). That action proposed to require inspection of the bolts on the hinge fittings that attach the spring tab and the servo tab to the rear spar of the elevators for evidence of loosening; inspection of the region of the hinge fittings on the spring tab for interference of the bonding jumpers attached to the hinge fittings with the leading edge of the spring tab; and corrective action, if necessary.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 71 airplanes of U.S. registry will be affected by this AD.

The initial inspection will take 2 work hours per airplane at an average labor rate of \$60 per hour. Based on these figures, the cost impact on U.S. operators of the initial inspection (Part I) specified in the AD is estimated to be \$8,520, or \$120 per airplane.

The cost impact on U.S. operators of follow-on actions is specified in the following table:

COST OF FOLLOW-ON ACTIONS

| Action | Work hours | Cost of labor/airplane | Cost of parts/airplane | Cost/airplane |
|-------------------------------------|------------|------------------------|------------------------|---------------|
| Corrective action/Part II | 6 | \$360 | \$71 | \$431 |
| Corrective action/Part III | 6 | 360 | 2 | 362 |
| Repetitive inspection/Part IV | 3 | 180 | 0 | 180 |

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact

figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up,

planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between

the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001-04-03 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-12121. Docket 2000-NM-256-AD.

Applicability: Model EMB-145 series airplanes; serial numbers 145004 through 145103 inclusive, 145105 through 145111 inclusive, and 145113 through 145117 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 (e) 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 the spring tab or the servo tab from becoming disconnected, resulting in structural failure, and to prevent damage to the leading edge of the spring tab, which

could result in loss of control of the elevator, accomplish the following:

Inspection

(a) Within 200 flight hours after the effective date of this AD, conduct a detailed visual inspection, as specified in paragraph (a)(1) or (a)(2) of this AD, as applicable, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-55-0009, Change No. 02, dated May 19, 2000.

(1) For airplanes having serial numbers 145004 through 145055 that have not been modified in accordance with EMBRAER Service Bulletin 145-55-0009, dated April 7, 1998: Inspect the bolts attaching the spring tab and servo tab hinge fittings to the rear spar of the left-hand and right-hand elevators for evidence of loosening.

(2) For airplanes having serial numbers 145004 through 145103, 145105 through 145111, and 145113 through 145117: Inspect the region of the hinge fittings on the spring tab for interference of the bonding jumper on the attaching bolts with the leading edge of the spring tab.

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

Modification

(b) Perform follow-on corrective actions, as applicable, in accordance with EMBRAER Service Bulletin 145-55-0009, Change No. 02, dated May 19, 2000, as shown in the following table:

TABLE 1.—FOLLOW-ON CORRECTIVE ACTIONS

| If . . . | And . . . | And . . . | Then . . . |
|---|---|--|--|
| (1) No discrepancy is found, | [Reserved] | [Reserved] | Prior to further flight, seal the bolt heads and adjacent hinge fitting surfaces. |
| (2) Any loose bolt or any interference of the bonding jumpers with the leading edge of the spring tab is found, | The airplanes have serial numbers 145004 through 145055, inclusive. | The airplanes have not been modified in accordance with EMBRAER Service Bulletin 145-55-0009, dated April 7, 1998. | Prior to further flight, accomplish Part II of the service bulletin, including replacing bolts, adding washers, and changing the position of the lockwire and the bonding jumpers. |
| | (ii) The airplanes have serial numbers 145004 through 145055, inclusive, and 145056 through 145076, inclusive. | The airplanes have been modified in accordance with EMBRAER Service Bulletin 145-55-0009, dated April 7, 1998. | Prior to further flight, accomplish Part III of the service bulletin, including adding washers and changing the position of the lockwire and the bonding jumpers. |
| | The airplanes have serial numbers 145077 through 145103, inclusive; 145105 through 145111, inclusive; and 145113 through 145117, inclusive. | [Reserved] | Prior to further flight, accomplish Part IV of the service bulletin, including adding washers and changing the position of the lockwire and the bonding jumpers. |

Repetitive Inspections

(c) Repeat the detailed visual inspection specified in paragraph (a) of this AD, at intervals not to exceed 400 flight hours.

Terminating Action

(d) Within 2,000 flight hours from the effective date of this AD, accomplish Part II, III, or IV, as applicable, of the service bulletin.

Alternative Methods of Compliance

(e) 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, Atlanta 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, Atlanta ACO.

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

Special Flight Permits

(f) 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

(g) The actions shall be done in accordance with EMBRAER Service Bulletin 145-55-0009, Change No. 02, dated May 19, 2000. 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: A portion of the subject of this AD is addressed in Brazilian airworthiness directive No. 98-05-02, dated May 28, 1998.

Effective Date

(h) This amendment becomes effective on March 29, 2001.

Issued in Renton, Washington, on February 9, 2001.

Vi L. Lipski,

*Manager, Transport Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. 01-3849 Filed 2-21-01; 8:45 am]

BILLING CODE 4910-13-0

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2000-NM-142-AD; Amendment 39-12112; AD 2001-03-08]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B19 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Bombardier Model CL-600-2B19 series airplanes, that currently requires, among other actions, certain revisions to the Airplane Flight Manual; and removal of all elevator flutter dampers. That AD also requires installation of new elevator flutter dampers, and replacement of shear pins and shear links with new improved shear pins and shear links. This amendment adds airplanes to the applicability of the existing AD; and requires replacing certain shear pins with new, improved shear pins; and, for certain airplanes, inspection of the maintenance records to determine replacement status of the shear pins; and corrective actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent premature failure of the shear pins of the elevator damper, which may increase the likelihood of jamming or restricting movement of the elevator and the resultant adverse effect on controllability of the airplane.

DATES: Effective March 29, 2001.

The incorporation by reference of certain publications, as listed in the regulations, is approved by the Director of the Federal Register as of March 29, 2001.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of April 3, 1998 (63 FR 9928, February 27, 1998).

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087 Station

Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Serge Napoleon, Aerospace Engineer, ANE-171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256-7512; fax (516) 568-2716.

SUPPLEMENTARY INFORMATION:

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98-04-45, amendment 39-10356 (63 FR 9928, February 27, 1998), which is applicable to certain Bombardier Model CL-600-2B19 series airplanes, was published in the **Federal Register** on October 31, 2000 (65 FR 64898). The action proposed to continue to require, among other actions, certain revisions to the Airplane Flight Manual (AFM); and removal of all elevator flutter dampers. The action also proposed to continue to require installation of new elevator flutter dampers, and replacement of shear pins and shear links with new improved shear pins and shear links. The action also proposed to add airplanes to the applicability of the existing AD; and to require replacing certain shear pins with new, improved shear pins; and, for certain airplanes, inspection of the maintenance records to determine replacement status of the shear pins; and corrective actions, if necessary.

Comments

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

Conclusion

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

Cost Impact

There are approximately 214 Bombardier Model CL-600-2B19 series

airplanes of U.S. registry that will be affected by this AD.

The removal of the elevator dampers and the AFM revision that are currently required by AD 98-04-45, and retained in this AD, take approximately 6 work hours per airplane to accomplish, at an average rate of \$60 per work hour. The FAA estimates that all affected U.S. operators have previously accomplished these requirements, therefore, the future cost impact of these requirements is minimal.

The inspections that are currently required by AD 98-04-45, and retained in this AD, take approximately 26 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the inspection requirements of AD 98-04-05 is estimated to be \$1,560 per airplane.

The installation of flutter dampers that is currently required by AD 98-04-45 takes approximately 12 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts will be provided at no cost to the operators by the manufacturer. Based on these figures, the cost impact of the installation currently required AD 98-04-45 is estimated to be \$720 per airplane.

The new actions (i.e., replacement of the shear pins, check of maintenance records, and AFM revision) that are required in this AD will take approximately 21 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour.

Required parts are estimated to cost \$801. Based on these figures, the cost impact of these new requirements of this AD on U.S. operators is estimated to be \$441,054, or \$2,061 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various

levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-10356 (63 FR 9928, February 27, 1998), and by adding a new airworthiness directive (AD), amendment 39-12112, to read as follows:

2001-03-08 Bombardier, Inc. (Formerly Canadair): Amendment 39-12112. Docket 2000-NM-142-AD. Supersedes AD 98-04-45, Amendment 39-10356.

Applicability: Model CL-600-2B19 series airplanes, having serial numbers 7003 through 7357 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 (i) 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 premature failure of the shear pins of the elevator damper, which may increase the likelihood of jamming or restricting movement of the elevator and the resultant adverse effect on controllability of the airplane, accomplish the following:

Restatement of Actions Required by AD 98-04-45:

Airplane Flight Manual (AFM) Revision Required by AD 98-04-45

(a) For airplanes having serial numbers 7003 through 7054 inclusive: Within 30 days after January 26, 1994 (the effective date of AD 94-01-09, amendment 39-8791), revise the Limitations Section of the FAA-approved AFM to include the following restrictions of altitude and airspeed operations under conditions of single or double hydraulic system failure; and advise the flight crew of these revised limits. Revision of the AFM may be accomplished by inserting a copy of this AD or AFM Revision 34, dated June 12, 1995, in the AFM. Restrictions of altitude and airspeed operations under conditions of single or double hydraulic system failure are listed in the following tables.

TABLE 1.—SINGLE HYDRAULIC SYSTEM FAILURE

| Altitude limit (maximum) | Airspeed limit (maximum) |
|--------------------------|--------------------------|
| 31,000 feet | 0.55 Mach (199 KIAS) |
| 30,000 feet | 0.55 Mach (204 KIAS) |
| 28,000 feet | 0.55 Mach (213 KIAS) |
| 26,000 feet | 0.55 Mach (222 KIAS) |
| 24,000 feet | 0.55 Mach (232 KIAS) |
| 22,000 feet | 0.55 Mach (241 KIAS) |
| 20,000 feet and below. | 252 KIAS |

TABLE 2.—DOUBLE HYDRAULIC SYSTEM FAILURE

| Altitude limit (maximum) | Airspeed limit (maximum) |
|--------------------------|--------------------------|
| 10,000 feet | 200 KIAS |

Note 2: The restrictions described in the AFM Temporary Revision (TR) RJ/30, dated December 16, 1993, meet the requirements of this paragraph. Therefore, inserting a copy of TR RJ/30 in lieu of this AD in the AFM is considered an acceptable means of compliance with this paragraph.

(b) Within 7 days after December 14, 1994 (the effective date of AD 94-24-02, amendment 39-9075), accomplish the

requirements of paragraphs (b)(1) and (b)(2) of this AD.

(1) Remove the elevator dampers in accordance with Canadair Regional Jet Alert Service Bulletin S.B. A601R-27-041, dated October 28, 1994.

(2) Revise the Limitations Section of the FAA-approved AFM to include the following, which advises the flight crew of daily checks to verify proper operation of the elevator control system. Revision of the AFM may be accomplished by inserting a copy of this AD or AFM Revision 32, dated March 30, 1995, in the AFM.

Note 3: The daily check described in the AFM TR RJ/40, dated October 28, 1994, meets the requirements of this paragraph. Therefore, inserting a copy of TR RJ/40 into the AFM in lieu of this AD is considered an acceptable means of compliance with this paragraph.

“Elevator, Before Engine Start (First Flight of Day)

(1) Elevator—Check: Travel range (to approximately ½ travel) using each hydraulic system in turn, with the other hydraulic systems depressurized.”

Inspections Required by AD 98-04-45

(c) For airplanes having serial numbers 7003 through 7049 inclusive: Within 12 months after April 3, 1998 (the effective date of AD 98-04-45, amendment 39-10356), perform the actions required in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, as applicable, in accordance with Section 2.B., Part A, of Canadair Regional Jet Service Bulletin S.B. 601R-27-040, Revision “B,” dated September 11, 1995.

(1) Remove the shear pins and shear links of the flutter dampers and perform a visual inspection to detect any deformation or discrepancy of the flutter damper hinge fitting and lug of the horizontal stabilizer. Prior to further flight, replace any deformed or discrepant part with a serviceable part in accordance with the service bulletin.

(2) Perform a visual inspection to detect any deformation or discrepancy of the elevator hinge/damper fitting and shear pin lugs. Prior to further flight, replace any discrepant part with a serviceable part in accordance with the service bulletin.

(3) Perform a fluorescent penetrant inspection and a dimensional inspection to detect any deformation or discrepancy of the shear pin lugs. If any deformation or discrepancy is found on the lugs, prior to further flight, replace the elevator with a new or serviceable elevator in accordance with the service bulletin.

Note 4: For the purposes of this AD, a detailed visual inspection is defined as: “An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.”

(d) For airplanes having serial numbers 7003 through 7054: Within 12 months after April 3, 1998 (the effective date of AD 98-04-45, amendment 39-10356), install new elevator flutter dampers (P/N 601R75142-7) in accordance with Section 2.B., Part B, of Canadair Regional Jet Service Bulletin S.B. 601R-27-040, Revision “B,” dated September 11, 1995.

New Requirements of This AD:

Installation of Shear Pins

(e) For airplanes having serial numbers 7003 through 7142 inclusive, and 7144: Within 12 months after the effective date of this AD, install new shear pins (part number (P/N) 601R24063-31/S) in accordance with Part A of the Accomplishment Instructions of Canadair Regional Jet Service Bulletin S.B. 601R-27-100, Revision “A,” dated March 10, 2000. After accomplishment of the installation of new shear pins, Canadair Regional Jet TR RJ/68-1, dated February 15, 2000, may be removed from the AFM.

Inspection of Maintenance Records

(f) For airplanes having serial numbers 7143, and 7145 through 7357 inclusive: Within 14 days after the effective date of this AD, perform a one-time inspection of the maintenance records to determine the replacement status of the shear pins of the elevator flutter dampers, in accordance with Part B of the Accomplishment Instructions of Canadair Regional Jet Service Bulletin S.B. 601R-27-100, Revision “A,” dated March 10, 2000.

(1) If the maintenance records indicate that all shear pins were NOT replaced after delivery of the airplane, or if all shear pins were replaced with shear pins having P/N 601R24063-31/S: No further action is required by this AD.

(2) If the maintenance records indicate that any shear pin was replaced after delivery of the airplane with a shear pin having P/N 601R24063-31 or 601R24063-953, or if the maintenance records do not verify that all shear pins having P/N 601R24063-31/S are installed: Accomplish the requirements of paragraph (g) of this AD at the times specified in that paragraph.

AFM Revision and Replacement

(g) For airplanes on which any shear pin of the elevator flutter dampers of the elevators was replaced after delivery of the airplane with a shear pin having P/N 601R24063-31 or 601R24063-953, or for airplanes on which verification of shear pins having P/N 601R24063-31/S is not possible: Accomplish the requirements of paragraphs (g)(1) and (g)(2) of this AD at the times specified in those paragraphs.

(1) Within 30 days after the effective date of this AD, revise the Normal Procedures Section of the AFM by inserting Canadair Regional Jet TR RJ/68-1, dated February 15, 2000, in the AFM, which advises the flight crew of an additional first-flight-of-the-day check of the elevator control system.

(2) Within 12 months after the effective date of this AD, replace the shear pins with new, improved shear pins having P/N

601R24063-31/S, in accordance with Part C of the Accomplishment Instructions of Canadair Regional Jet Service Bulletin S.B. 601R-27-100, Revision “A,” dated March 10, 2000. After accomplishment of the installation of new shear pins, the temporary revision required by paragraph (g)(1) of this AD may be removed from the AFM.

Spares

(h) As of the effective date of this AD, no person shall install a shear pin of the elevator flutter dampers having P/N 601R24063-31 or 601R24063-953 on any airplane.

Alternative Methods of Compliance

(i) 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, New York 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, New York ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(j) 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

(k) Except as required by paragraphs (a) and (b)(2) of this AD, the actions shall be done in accordance with Canadair Regional Jet Alert Service Bulletin S.B. A601R-27-041, dated October 28, 1994; Canadair Regional Jet Service Bulletin S.B. 601R-27-040, Revision “B,” dated September 11, 1995; Canadair Regional Jet Service Bulletin S.B. 601R-27-100, Revision “A,” dated March 10, 2000; and Canadair Regional Jet Airplane Flight Manual Temporary Revision RJ/68-1, dated February 15, 2000; as applicable.

(1) The incorporation by reference of Canadair Regional Jet Service Bulletin S.B. 601R-27-100, Revision “A,” dated March 10, 2000; and Canadair Regional Jet Airplane Flight Manual Temporary Revision RJ/68-1, dated February 15, 2000; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Canadair Regional Jet Alert Service Bulletin S.B. A601R-27-041, dated October 28, 1994; and Canadair Regional Jet Service Bulletin S.B. 601R-27-040, Revision “B,” dated September 11, 1995; was approved previously by the Director of the **Federal Register** as of April 3, 1998 (63 FR 9928, February 27, 1998).

(3) Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087 Station Centre-ville,

Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 6: The subject of this AD is addressed in Canadian airworthiness directive CF-2000-10, dated March 23, 2000.

Effective Date

(l) This amendment becomes effective on March 29, 2001.

Issued in Renton, Washington, on February 8, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-3697 Filed 2-21-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26

[TD 8912]

RIN 1545-AX08

Generation-Skipping Transfer Issues; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations that were published in the **Federal Register** on Wednesday, December 20, 2000 (65 FR 79735) relating to the generation-skipping transfer (GST) tax imposed under chapter 13 of the Internal Revenue Code.

DATES: This correction is effective December 20, 2000.

FOR FURTHER INFORMATION CONTACT: James F. Hogan (202) 622-3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 2601 of the Internal Revenue Code.

Need for Correction

As published, the final regulations contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8912), that were the subject of FR Doc. 00-31757, is corrected as follows:

§ 26.2601-1 [Corrected]

On page 79740, column 2, § 26.2601-1, paragraph (b)(4)(i)(E), *Example 9.*, line 6, the language “is to pass to the A’s issue, per stirpes. Under” is corrected to read “is to pass to A’s issue, per stirpes. Under”.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).

[FR Doc. 01-4292 Filed 2-21-01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07-01-011]

Drawbridge Operation Regulations: Stickney Point Bridge (SR 72), Sarasota, Sarasota County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Stickney Point Drawbridge (SR 72) across the Gulf Intracoastal Waterway, mile 68.6, Sarasota, Sarasota County, Florida. This deviation allows the drawbridge owner or operator to only open a single leaf from February 26, 2001 to February 28, 2001 from 8 a.m. until 5 p.m., daily. This temporary deviation is required to allow the bridge owner to safely complete maintenance to the drawbridge.

DATES: This deviation is effective from February 26, 2001 to February 28, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415-6743.

SUPPLEMENTARY INFORMATION: The Stickney Point Drawbridge (SR 72) across the Gulf Intracoastal Waterway at Sarasota, FL is a double leaf bridge with a vertical clearance of 18 feet above mean high water (MHW) measured at the center in the closed position. On January 24, 2001 the owner requested a deviation from the current operating regulation in 33 CFR 117.35 which

requires the drawbridge to open promptly and fully when a request to open is given. This temporary deviation was requested to allow necessary maintenance to the drawbridge in a critical time sensitive manner.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.35 for the purpose of maintenance of the drawbridge. Under this deviation, the Stickney Point Drawbridge (SR 72) need only open one leaf from February 26, 2001 to February 28, 2001 from 8 a.m. until 5 p.m., daily.

Dated: February 13, 2001.

G. E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 01-4329 Filed 2-21-01; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08-00-005]

RIN 2115-AE47

Drawbridge Operation Regulation; Chef Menteur Pass, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulation governing the operation of the U.S. Highway 90 bridge across Chef Menteur Pass, mile 2.8 at Lake Catherine, Orleans Parish, Louisiana. The rule provides that the draw shall open on signal; except that, from 5:30 a.m. to 7:30 a.m., Monday through Friday except Federal holidays, the draw need open only on the hour and on the half-hour for the passage of vessels. The draw shall open at any time for a vessel in distress. This change will accommodate the navigation needs of commercial fishing vessels while providing the uninterrupted flow of vehicular traffic for commuters en route to work during this period.

DATES: This rule becomes effective on March 26, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD08-00-005 and are available for inspection or copying at the Bridge Administration Branch, Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, Eighth Coast Guard District at the address given above, telephone 504-589-2965.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 10, 2000 the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operating Regulation; Chef Menteur Pass, Louisiana in **Federal Register** (65 FR 30043). The Coast Guard received no letters in response to the NPRM. No public hearing was requested, and none was held.

Background and Purpose

The existing regulation states that the draw of the bridge is required to open on signal, except that from 5:30 a.m. to 7:30 a.m., Monday through Friday except Federal holidays, the draw need not open for the passage of vessels. The draw shall open at anytime for a vessel in distress.

The Coast Guard received numerous complaints from operators of commercial fishing vessels, stating that the existing regulation did not meet the reasonable needs of navigation for local commercial fishermen because they are required to haul in their shrimp nets earlier than necessary to be able to pass through the bridge before the closure time. Local commercial fishermen generally trawl for shrimp during evening hours. This is because brown shrimp feed at night above the bottom. Once daylight occurs they bury themselves in the mud and can no longer be caught with trawl nets. Since the fishermen need to maximize trawling time, they work from sundown until sunrise then enter port and unload their catches. In order for them to transit the U.S. Highway 90 bridge before the 5:30 closure, they must haul in their nets as much as two hours early and head into port. This cuts down trawling time and causes loss of revenue. Based on complaints from local commercial fishermen, the Coast Guard determined that the current operating schedule may not meet the reasonable needs of navigation.

On May 10, 2000 the Coast Guard published a NPRM (65 FR 30043) and a notice of temporary deviation from regulations with request for comments in **Federal Register** (65 FR 29954). The temporary deviation from regulations allowed for the testing of the proposed operating schedule during the month of June.

Discussion of Comments and Changes

No comments regarding the temporary deviation or the NPRM were received.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This rule will have a positive impact on the economic status of the local commercial fishermen as it provides them with adequate time to trawl. It will not create a significant adverse effect for the local motorists who cross the bridge on weekdays en route to work. The motorists will be able to adjust their commuting schedules to accommodate the hour and half-hour drawbridge openings.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. 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 would not have a significant economic impact on a substantial number of small entities. The small entities concerned with this rule are the local commercial fishermen who transit the bridge. This rule will positively affect the local commercial fishermen by affording them adequate time to trawl. They will not be required to haul in their nets early in order to transit through the bridge en route to port.

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 rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business,

organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Bridge Administration Branch, Eighth Coast Guard District at the address above.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

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.

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

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule will change an existing special

drawbridge operating regulation promulgated by a Coast Guard Bridge Administration Program action. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.436 is revised to read as follows:

§ 117.436 Chef Menteur Pass.

The draw of the U.S. Highway 90 bridge, mile 2.8, at Lake Catherine, shall open on signal; except that, from 5:30 a.m. to 7:30 a.m., Monday through Friday except Federal holidays, the draw need open only on the hour and on the half-hour for the passage of vessels. The draw shall open at any time for a vessel in distress.

Dated: February 12, 2001.

Paul J. Pluta,

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

[FR Doc. 01-4330 Filed 2-21-01; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-301102; FRL-6766-5]

RIN 2070-[AB78]

Pendimethalin; Re-establishment of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation re-establishes time-limited tolerances for the combined residues of the herbicide pendimethalin and its 3,5-dinitrobenzyl alcohol metabolite in or on fresh mint hay and mint oil at 0.1 and 5.0 part per million (ppm), respectively for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2002. This action is in response to EPA's granting of emergency

exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on mint. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (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 the FIFRA.

DATES: This regulation is effective February 22, 2001. Objections and requests for hearings, identified by docket control number OPP-301102, must be received by EPA on or before April 23, 2001.

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 III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301102 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; and e-mail address: pemberton.libby@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.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301102. 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

EPA issued a final rule, published in the **Federal Register** of May 23, 1997 (62 FR 28355) (FRL-5718-5), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104-170) it established time-limited tolerances for the

combined residues of pendimethalin and its 3,5-dinitrobenzyl alcohol metabolite in or on mint hay, fresh and mint, oil at 0.1 and 5.0 ppm, respectively, with an expiration date of May 31, 1998. EPA has twice extended the expiration date of these tolerances. First in a **Federal Register** notice published March 4, 1998 (63 FR 10545) (FRL-5772-9) until May 31, 1999 and for the second time, March 17, 1999 (64 FR 13086) (FRL-6063-9) until December 31, 2000. EPA established the tolerances because 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 the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA received requests to extend the use of pendimethalin on mint for this year's growing season due to the continuation of the emergency situation for Idaho, Oregon, and Washington mint growers. The continuous use of terbacil in past years has resulted in development of resistance to this chemical in kochia and pigweed, resulting in inadequate control of this pest by registered alternatives. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of pendimethalin on mint for control of kochia and redroot pigweed in Idaho, Oregon, and Washington.

EPA assessed the potential risks presented by residues of pendimethalin in or on mint hay, fresh and mint, oil. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of May 23, 1997 (62 FR 28355) (FRL-5718-5). Based on that data and information considered, the Agency reaffirms that re-establishment of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are re-established for an additional 2-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on December 31, 2002, under FFDCA

section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on mint hay, fresh and mint, oil after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP-301102 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 April 23, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so

marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

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

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP-301102, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania

Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

IV. Regulatory Assessment Requirements

This final rule re-establishes time-limited tolerances under FFDC 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* October 4, 1993 (58 FR 51735). 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 petition under FFDC section 408, such as the tolerances 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 FFDC section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the

distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and 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 record keeping requirements.

Dated: February 5, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

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

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

§ 180.361 [Amended]

2. In § 180.361, amend paragraph (b), by revising the date for "mint hay, fresh" and "mint oil" from "12/31/01" to read "12/31/02."

[FR Doc. 01-4403 Filed 2-21-01; 8:45 am

BILLING CODE 6560-50-S

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 1, 2, 87 and 101**

[WT Docket No. 99-327, FCC 00-272]

24 GHz Service; Licensing and Operation**AGENCY:** Federal Communications Commission.**ACTION:** Final rule; announcement of effective date.

SUMMARY: This document is to show rules amended by the Commission in order to implement licensing and operation of the 24 GHz band, shall become effective February 22, 2001. These sections, which contained new information collection requirements, were published in the **Federal Register** December 28, 2000, (OMB No. 3060-0963). This is to let the public know the effective date of the rules that contain new information collection requirements.

EFFECTIVE DATE: The amendments to 47 CFR 101.527 and 101.529 published at 65 FR 59350 (October 5, 2000) are effective February 22, 2001.

FOR FURTHER INFORMATION CONTACT: Jim Shaffer, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0680.

SUPPLEMENTARY INFORMATION: On July 25, 2000, the Commission adopted a *Report and Order* ("Order") (FCC 00-272) to implement licensing and operation of the 24.25-24.45 GHz and 25.05-25.25 GHz bands, a summary of which was published in the **Federal Register**. See 65 FR 59350 (October 5, 2000). We stated that the Part 101 of the Commission's rules, 47 CFR Part 101, is amended effective December 4, 2000, except for §§ 101.527 and 101.529 which contains information collections that are not effective until approved by the Office of Management and Budget. We also stated that the Commission will publish a document in the **Federal Register** announcing the effective date for those sections. This statement requires further action by the Commission to establish the effective date, notwithstanding the preceding statement in the summary that the rule change would become effective upon OMB approval. In order to resolve this matter in a manner that most appropriately provides interested parties with proper notice, the rule changes adopted in the Order shall become effective February 22, 2001. The information collection was approved by

OMB on December 1, 2000. See OMB No. 3060-0963.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,*Secretary.*

[FR Doc. 01-4320 Filed 2-21-01; 8:45 am]

BILLING CODE 6712-01-M**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 2**

[FCC 01-30]

33-36 GHz for Federal Government Use**AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: The document amends the Table of Frequency Allocations, by adding a new footnote, US360, to permit use of the band 33-36 GHz by the Federal Government fixed-satellite service (FSS), space-to-Earth. An existing footnote, G117, also was revised to denote that the Federal Government's use of this band is limited to military systems. This action was taken in response to a request filed by the Administrator, National Telecommunications and Information Administration ("NTIA") for the purpose of advancing, supporting, and accommodating the national defense.

DATES: Effective February 22, 2001.

FOR FURTHER INFORMATION CONTACT: Kathryn Hosford, Office of Engineering and Technology, (202) 418-0652.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, FCC 01-30, adopted January 19, 2001, and released January 26, 2001. The full text of this Commission decision is available on the Commission's Internet site at <http://www.fcc.gov>. It is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Summary of the Memorandum Opinion and Order

1. On January 12, 2001, the Administrator, NTIA, requested that the Commission add a United States footnote to the United States Table of Frequency Allocations, 47 CFR 2.106, that would allocate the band 33-36 GHz on a primary basis to the Federal Government fixed-satellite service (space-to-Earth). NTIA stated that this matter involves military functions, as well as specific national security interests of the United States, that the reallocation is essential to fulfill requirements for Federal Government space systems to perform satisfactorily, and that these Department of Defense ("DoD") requirements cannot be accommodated in frequency bands currently allocated for Federal Government fixed-satellite service (space-to-Earth). NTIA indicated that the Federal Government footnote G117 will be modified to limit Federal Government fixed-satellite use of this band to military systems. NTIA also requested expedited consideration, and that the rules be amended without public notice or comment due to the near-term national security interests.

2. Nationally, the band 33-33.4 GHz is shared Federal Government and non-Federal Government spectrum that is allocated to the radionavigation service on a primary basis. In the sub-band 31.8-33.4 GHz, ground based radionavigation aids are permitted only where they are used in cooperation with airborne or shipborne radionavigation devices. Non-Federal Government airborne radionavigation devices are licensed under Part 87 of the Commission's Rules. This allocation, however, is currently unused by non-Federal Government licensees.

3. The band 33.4-36 GHz is allocated to the radiolocation service on a primary basis for the Federal Government and on a secondary basis for non-Federal Government use. However, all non-military radiolocation devices operating in this band are secondary to the military services, except for the sub-band 34.4-34.5 GHz, where weather radars on board meteorological satellites for cloud detection are authorized to operate on an equal basis with military radiolocation devices. In the sub-band 34.2-34.7 GHz, an additional allocation is made for space research service (deep space, Earth-to-space) at Goldstone, California. In the band 33.4-36 GHz, non-Federal Government radiolocation is permitted under part 90 of the Commission's Rules. There is currently only limited non-Federal Government use of the band 33.4-36 GHz. The

majority of these uses are limited to speed control and testing and development purposes.

4. Based on the representations of NTIA that the reallocation is essential to fulfill requirements for Federal Government space systems to perform satisfactorily and that these DoD requirements cannot be accommodated in frequency bands currently allocated for Federal Government fixed-satellite service (space-to-Earth) use, the Commission found that the public interest would best served by accommodating NTIA's request and adding United States footnote US360 to, and amending Federal Government footnote G117 of, the Table of Frequency Allocations. Upon review of the Commission's records, there appeared to be little, if any, impact on non-Federal Government services.

5. Further, the Commission took this action without notice and comment procedures. Section 553 of the Administrative Procedure Act (APA) states that rulemaking proceedings are required "except to the extent that there is involved" (1) a military or foreign affairs function of the United States." 5 U.S.C. 553(a)(1). The Commission's Rules, moreover, state that rule changes including any military, naval, or foreign affairs functions of the United States "will ordinarily be adopted without

prior notice." 47 CFR 1.412(b)(1). The APA also includes a good cause exception to rulemaking requirements when such procedures are "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B). The Commission noted that, as a general matter, public notice requirements are an essential component of its legal authority. In this instance, however, the Commission found it appropriate to take this action without public notice because this matter involved the exercise of military functions of the United States based on specific national security needs and that good cause exists that notice and public procedures are unnecessary and contrary to the public interest. *See* 5 U.S.C. 553 (a)(1), (b)(3)(B); 47 CFR 1.412(b)(1), (c); *Bendix Aviation Corp. v. F.C.C.*, 272 F.2d 533 (D.C. Cir. 1959), *cert. denied sub nom. Aeronautical Radio, Inc. v. U.S.*, 361 U.S. 965 (1960). Additionally, due to the near term national security requirements noted by NTIA, the Commission found good cause to expedite this request and make the amendments effective immediately upon publication in the **Federal Register**. 5 U.S.C. 553(d)(3).

List of Subjects in 47 CFR Part 2

Radio, Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 2 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

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

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

- a. Revise pages 75 and 76.
- b. Revise United States footnote US252 and add footnote US360.
- c. Revise Federal Government footnote G117.

The addition and revisions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

BILLING CODE 6712-01-P

| International Table | | United States Table | | FCC Rule Part(s) |
|--|----------|-------------------------|-------------------------|--------------------------|
| Region 1 | Region 2 | Federal Government | Non-Federal Government | |
| | | | | |
| 32-32.3 | | 32-32.3 | 32-32.3 | |
| FIXED S5.547A | | INTER-SATELLITE US278 | INTER-SATELLITE US278 | |
| INTER-SATELLITE | | RADIONAVIGATION US69 | SPACE RESEARCH (deep | |
| RADIONAVIGATION | | SPACE RESEARCH (deep | space) (space-to-Earth) | |
| SPACE RESEARCH (deep space) (space-to-Earth) | | US262 | US262 | |
| S5.547 S5.547C S5.548 | | S5.548 | S5.548 | |
| 32-3-33 | | 32-3-33 | | |
| FIXED S5.547A | | INTER-SATELLITE US278 | | |
| INTER-SATELLITE | | RADIONAVIGATION US69 | | |
| RADIONAVIGATION | | | | |
| S5.547 S5.547D S5.548 | | S5.548 | | Aviation (87) |
| 33-33.4 | | 33-33.4 | | |
| FIXED S5.547A | | RADIONAVIGATION US69 | | |
| RADIONAVIGATION | | | | |
| S5.547 S5.547E | | US360 G117 | | |
| 33.4-34.2 | | 33.4-36 | 33.4-36 | |
| RADIOLOCATION | | RADIOLOCATION US110 | Radiolocation US110 | |
| S5.549 | | G34 | | Private Land Mobile (90) |
| 34.2-34.7 | | | | |
| RADIOLOCATION | | | | |
| SPACE RESEARCH (deep space) (Earth-to-space) | | | | |
| S5.549 | | | | |
| 34.7-35.2 | | | | |
| RADIOLOCATION | | | | |
| Space research S5.550 | | | | |
| S5.549 | | | | |
| 35.2-35.5 | | | | |
| METEOROLOGICAL AIDS | | | | |
| RADIOLOCATION | | | | |
| S5.549 | | | | |
| 35.5-36 | | | | |
| METEOROLOGICAL AIDS | | | | |
| EARTH EXPLORATION-SATELLITE (active) | | | | |
| RADIOLOCATION | | | | |
| SPACE RESEARCH (active) | | | | |
| S5.549 S5.551A | | S5.551 US252 US360 G117 | S5.551 US252 US360 | |

| | | |
|---|---|--|
| <p>36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive)</p> | <p>36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive)</p> | |
| <p>S5.149</p> | <p>US263 US342</p> | |
| <p>37-37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth)</p> | <p>37-37.6 FIXED MOBILE SPACE RESEARCH (space-to-Earth)</p> | |
| <p>37.5-38 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth exploration-satellite (space-to-Earth)</p> | <p>37.6-38.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE</p> | <p>Satellite Communications (25)</p> |
| <p>38-39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Earth exploration-satellite (space-to-Earth)</p> | <p>38-38.6 FIXED MOBILE 38.6-39.5</p> | <p>Auxiliary Broadcasting (74) Fixed Microwave (101)</p> |
| <p>39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) Earth exploration-satellite (space-to-Earth)</p> | <p>US291 39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) US291 G117</p> | |

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United States (US) Footnotes

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US252 The bands 2110–2120 MHz, 7145–7190 MHz, and 34.2–34.7 GHz are also allocated for Earth-to-space transmissions in the space research service, limited to deep space communications at Goldstone, California.

* * * * *

US360 In the band 33–36 GHz, the Government fixed-satellite service (space-to-Earth) is also allocated on a primary basis. Coordination between Government fixed-satellite service systems and non-Government systems operating in accordance with the United States Table of Frequency Allocations is required.

* * * * *

Federal Government (G) Footnotes

* * * * *

G117 In the bands 7.25–7.75 GHz, 7.9–8.4 GHz, 17.8–21.2 GHz, 30–31 GHz, 33–36 GHz, 39.5–40.5 GHz, 43.5–45.5 GHz, and 50.4–51.4 GHz, the Government fixed-satellite and mobile-satellite services are limited to military systems.

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[FR Doc. 01–4215 Filed 4–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 01–379, MM Docket No. 00–177, RM–9954]

Digital Television Broadcast Service; Rapid City, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Duhamel Broadcasting Enterprise, licensee of station KOTA-TV, substitutes DTV channel 2 for DTV channel 22 at Rapid City. See 65 FR 59388, October 5, 2000. DTV channel 2 can be allotted to Rapid City in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 44–04–08 N. and 103–15–03 W. with a power of 8.0, HAAT of 174 meters and with a DTV service population of 124 thousand.

With this action, this proceeding is terminated.

DATES: Effective April 2, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report

and Order, MM Docket No. 00–177, adopted February 14, 2001, and released February 15, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303, 334, 336.

Section 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under South Dakota is amended by removing DTV channel 22 and adding DTV channel 2 at Rapid City.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–4328 Filed 2–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA–378, MM Docket No. 00–200, RM–9967]

Digital Television Broadcast Service; Sioux Falls, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Midwest Broadcasting Company, licensee of station KAUN(TV), NTSC channel 36, substitutes DTV channel 51 for DTV channel 40 at Sioux Falls, South Dakota. See 65 FR 63044, October 20, 2000. DTV channel 51 can be allotted to Sioux Falls in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (43–30–19 N. and 96–34–19 W.) with a power of 93.0, HAAT of 230 meters and with a DTV service population of 209 thousand.

With this action, this proceeding is terminated.

DATES: Effective April 2, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–200, adopted February 14, 2001, and released February 15, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR PART 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under South Dakota, is amended by removing DTV channel 40 and adding DTV channel 51 at Sioux Falls.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–4327 Filed 2–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 01–381, MM Docket No. 99–268, RM–9691]

Digital Television Broadcast Service; Chattanooga, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Sarkes Tarzian, Inc., licensee of station WRCB-TV, NTSC channel 3, substitutes DTV channel 13 for DTV channel 55 at Chattanooga, Tennessee.

See 64 FR 45500, August 20, 1999. DTV channel 13 can be allotted to Chattanooga in compliance with the principal community coverage requirements of Section 73.625(a) at reference coordinates (35-09-40 N. and 85-18-52 W.) with a power of 37.0, HAAT of 325 meters and with a DTV service population of 915 thousand.

With this action, this proceeding is terminated.

DATES: Effective April 2, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99-268, adopted February 15, 2001, and released February 16, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Tennessee, is amended by removing DTV channel 55 and adding DTV channel 13 at Chattanooga.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01-4326 Filed 2-21-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-380, MM Docket No. 00-118, RM-9757]

Digital Television Broadcast Service; Lexington, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of WKYT Licensee Corporation, licensee of station WKYT-TV, substitutes DTV channel 13 for DTV channel 59 at Lexington, Kentucky. See 65 FR 41620, July 6, 2000. DTV channel 13 can be allotted to Lexington in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (38-02-23 N. and 84-24-10 W.), with a power of 5.0, HAAT of 300 meters and with a DTV service population of 758 thousand.

With this action, this proceeding is terminated.

DATES: Effective April 2, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00-118, adopted February 15, 2001, and released February 16, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Kentucky, is amended by removing DTV channel 59 and adding DTV channel 13 at Lexington.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01-4325 Filed 2-21-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-377, MM Docket No. 00-182, RM-9957]

Digital Television Broadcast Service; Sumter, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of McLaughlin Broadcasting, Inc., licensee of station WQHB-TV, NTSC channel 63, substitutes DTV channel 39 for DTV channel 38 at Sumter, South Carolina. See 65 FR 59796, October 6, 2000. DTV channel 39 can be allotted to Sumter in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (34-06-33 N. and 80-44-35 W.) with a power of 500, HAAT of 269 meters and with a DTV service population of 860 thousand.

With this action, this proceeding is terminated.

DATES: Effective April 2, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00-182, adopted February 14, 2001, and released February 15, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under South Carolina, is amended by removing DTV channel 38 and adding DTV channel 39 at Sumter.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01-4324 Filed 2-21-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-347; MM Docket No. 00-171; RM-9926]

Radio Broadcasting Services; Wells and Woodville, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 234C2 from Woodville, Texas, to Wells, Texas, and modifies the license for Station KVLL to specify operation on Channel 234C2 at Wells in response to a petition filed by Radio Woodville, Inc. See 65 FR 59162, October 4, 2000. The coordinates for Channel 234C2 at Wells are 31-12-37 and 94-57-15.

DATES: Effective March 26, 2001.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 00-171, adopted January 31, 2001, and released February 9, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Woodville, Channel 234C2 and adding Wells, Channel 234C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01-4321 Filed 2-21-01; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000831250-0250-01; I.D. 013100D]

Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Change in Pacific Mackerel Incidental Catch

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

ACTION: Fishing restrictions.

SUMMARY: NMFS announces changes to the restriction on landings of Pacific mackerel for individuals participating in the coastal pelagic species (CPS) fishery and for individuals involved in other fisheries who harvest small amounts of Pacific mackerel. The incidental limit on landings of 20 percent by weight of Pacific mackerel in landings of Pacific sardine, northern anchovy, jack mackerel, and market squid remains in effect; however, CPS fishermen may land up to 1 metric ton (mt) of Pacific mackerel even if they land no other species from the trip. Non-CPS fisherman may land no more than 1 mt or Pacific mackerel per trip. After the harvest guideline of 20,740 mt is reached, all landings of Pacific mackerel will be restricted to 1 mt per trip. This action is authorized by the Coastal Pelagic Species Fishery Management Plan (FMP) and is intended to ensure that the fishery achieves, but does not exceed, the harvest guideline while minimizing the economic impact on small businesses.

DATES: Effective February 22, 2001.

FOR FURTHER INFORMATION CONTACT:

James J. Morgan, Southwest Region, NMFS, 562-980-4036.

SUPPLEMENTARY INFORMATION: NMFS closed the directed fishery for Pacific mackerel in the exclusive economic zone (EEZ) off the Pacific coast at 12:01 a.m. on October 27, 2000, and imposed an incidental landing limit of 20 percent by weight of Pacific mackerel in landings of Pacific sardine, jack mackerel, northern anchovy, and market squid (65 FR 65272, November 1, 2000, and 65 FR 69483, November 17, 2000). At the time of the closure, 17,829 mt of the 20,740-mt harvest guideline had been landed. The remaining 2,911 mt was needed to allow for an incidental landing of Pacific mackerel by vessels fishing for other coastal pelagic species so that restricting the harvest of other species would not be necessary.

The Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team has reviewed the conduct of the fishery through November and December, including the needs of the non-CPS fisheries. Section 2.4 of the FMP provides for setting a small incidental harvest for non-CPS fisheries to minimize discards, but until this action no provision had been made for these harvesters during this fishing season.

There also will be a need to implement further restriction on harvests of Pacific mackerel if the harvest guideline is reached before the end of the fishing season on June 30, 2001, so that bycatch can be minimized. As a result, the Council has recommended that no more than 1 mt of Pacific mackerel may be landed per trip by CPS and non-CPS fishermen after the harvest guideline is reached. This measure will be implemented when the harvest guideline is reached, and announced in the **Federal Register**. The NMFS Southwest Regional Administrator has decided to take this action in accordance with the FMP and its implementing rules. This action was reviewed by members of the Council's Coastal Pelagic Species Advisory Subpanel, the Council, and the State of California.

For the reasons stated here and in accordance with the FMP and its implementing regulations, the following incidental limits are in effect for harvesters of Pacific mackerel:

No fishing vessel may land more than 1 mt of Pacific mackerel per fishing trip, except that fishing vessels with other CPS on board may land more than 1 mt of Pacific mackerel in a fishing trip if the total amount of Pacific mackerel on board the vessel does not exceed 20

percent by weight of the combined weight of all CPS on board the vessel.

Classification

This action is required by 50 CFR 660.509 and is exempt from review under Executive Order 12866.

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

Dated: February 14, 2001.

Bruce C. Morehead,

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

[FR Doc. 01-4416 Filed 2-21-01; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000822244-01; I.D. 082100B]

RIN 0648-AO66

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Hawaii-based Pelagic Longline Area Closure

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

ACTION: Emergency interim rule; extension of expiration date.

SUMMARY: This action extends an emergency interim rule, now in effect, governing the Hawaii-based pelagic longline fishery. The rule closes certain waters to fishing; imposes fishing gear, landing and transshipment restrictions, effort limitations, and fish sale restrictions; and requires increased observer coverage for the fishery. By extending the emergency interim rule that is effective through February 21, 2001, NMFS continues implementation of an order issued by the U.S. District Court for the District of Hawaii while an environmental impact statement (EIS) is being completed for the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP).

DATES: This emergency interim rule is effective from February 22, 2001, through August 20, 2001.

ADDRESSES: Copies of the environmental assessment prepared for the emergency interim rule may be obtained from Dr. Charles Karnella, Administrator, Pacific Islands Area Office (PIAO), NMFS, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI, 96814-4700.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, PIAO, 808-973-2937.

SUPPLEMENTARY INFORMATION: On August 4, 2000, the U.S. District Court for the District of Hawaii, in the case *Center for Marine Conservation v. NMFS*, issued an Order Further Modifying Provisions of Order of Injunction that was implemented by NMFS by an emergency interim rule promulgated on August 25, 2000 (65 FR 51992, August 25, 2000). As intended by the order, the emergency interim rule reduces adverse impacts to sea turtles by the Hawaii-based longline fishery while NMFS prepares an EIS that analyzes the environmental effects of fishing activities conducted under the FMP. The EIS is scheduled for completion by April 1, 2001.

The emergency interim rule, which was revised on November 3, 2000 (65 FR 66186, November 3, 2000), prohibits vessels registered for use with Hawaii longline limited access permits from fishing activities throughout the year in waters between 28° N. and 44° N. lat., from 150° W. to 168° W. long. ("Area A"); limits vessels registered for use with Hawaii longline limited access permits to a total of 154 sets from August 10 through December 31, 2000, and a total of 77 sets from January 1 through March 14, 2001, and requires 100-percent observer coverage for these vessels in waters between 28° N. and 44° N. lat., from 137° W. to 150° W. long., and in waters between 28° N. and 44° N. lat., from 168° W. to 173° E. long. (both areas collectively designated "Area B"). The rule also prohibits Hawaii-based longliners operating in waters between 0° lat. (equator) and 28° N. lat., from 137° W. and 173° E. long. ("Area C") from engaging in directed fishing effort for swordfish; requires deployment of longline gear so that the deepest point of the longline between any two floats reaches a depth greater than 100 m (328.1 ft) below the sea surface; requires permit holders or operators to donate to charity at least 30 percent of their gross revenues from the sale of incidentally caught swordfish from Area C; and prohibits longline vessels from possessing lightsticks aboard the vessels if fishing occurs in any portion of Area C.

Further, pursuant to the Court's Order, NMFS provided observer coverage for the Hawaii longline fishery in Area C at a minimum level of 10 percent by September 21, 2000, and increased the level to 20 percent before November 7, 2000. To ensure these levels of coverage, this rule requires any Hawaii-based longline vessel that NMFS has exempted from carrying NMFS-approved observers in Area C for a specific fishing trip to have aboard the vessel a valid observer waiver form

issued by NMFS. For Areas B and C, longline fishing activities are prohibited from March 15 through May 3. During the closure, Pacific pelagic management unit species harvested in Areas B and C (all year in Area A) are prohibited from being landed or transhipped to Hawaii.

This extension of the emergency interim rule implements the Court's order for an additional 180 days until August 20, 2001, unless prior to that expiration date, NMFS completes the environmental impact statement for the FMP and the Court lifts the injunction contained in its Order dated August 4, 2000. Although NMFS has reorganized the sequence of several paragraphs in §§ 660.22 and 660.33(d) and (e), this emergency interim rule is substantively identical to the emergency interim rule published August 25, 2000, as amended by the rule published on November 3, 2000.

Extension of this emergency interim rule is authorized under section 305(c)(3)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that extension of the emergency interim rule is necessary to comply with a valid order of the U.S. District Court.

The AA finds for good cause that providing prior notice and opportunity for public comment for this rule is unnecessary given that the Court ordered the specific actions contained in this rule, thus precluding implementation of any alternative, and is impracticable given the Court's deadline. Similarly, the AA finds, for good cause, under 5 U.S.C. 553(d)(3), that delaying the effectiveness of this rule for 30 days is impracticable given the Court's deadline. Accordingly, the AA is making this rule effective from February 22, 2001, through August 20, 2001.

This emergency interim rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

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

Dated: February 20, 2001.

Clarence G. Pautzke,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.22, paragraphs (z), (aa), and (bb) are suspended, and new paragraphs (ee) through (ll) are added to read as follows:

§ 660.22 Prohibitions.

* * * * *

(ee) Fish for Pacific pelagic management unit species with a vessel registered for use under a Hawaii longline limited access permit using longline gear within the Hawaii emergency closed areas in violation of § 660.33(b)(1), (c)(1), (c)(4), (c)(5), or (d)(1).

(ff) Use a receiving vessel registered for use under a receiving vessel permit to receive from another vessel Pacific pelagic management unit species harvested with longline gear, if the fish were harvested or the transfer occurs within the Hawaii emergency closed areas in violation of § 660.33(b)(2), (c)(2), or (d)(2).

(gg) Land or transship shoreward of the outer boundary of the EEZ around Hawaii Pacific pelagic management unit species that were harvested with longline gear within the Hawaii emergency closed areas in violation of § 660.33(b)(3), (c)(3), or (d)(3).

(hh) Land or sell swordfish (*Xiphias gladius*) caught by longline gear within the Hawaii emergency longline closed Area C in violation of § 660.33(d)(5).

(ii) Use longline gear to fish for Pacific pelagic management unit species in Hawaii emergency longline closed Area B or Area C without a NMFS-approved observer on board the vessel in violation of § 660.33(e)(1) or (e)(2).

(jj) Possess light sticks on a longline vessel within the Hawaii emergency longline closed Area C in violation of § 660.33(d)(6).

(kk) Fail to carry onboard the vessel or to make available for inspection by an authorized officer an observer waiver form issued by the Administrator, Pacific Islands Area Office, NMFS, or a designee of the Administrator as required under § 660.33(e)(2).

(ll) Direct longline fishing effort toward the harvest of swordfish in

Hawaii emergency longline closed Area C.

3. In § 660.23, paragraph (a) is suspended and new paragraph (c) is added to read as follows:

§ 660.23 Notifications.

* * * * *

(c) The permit holder of a vessel registered for use with a Hawaii longline limited access permit or with an agent designated by the permit holder shall provide notice to the Regional Administrator at least 72 hours (not including weekends and holidays) before the vessel leaves port on a fishing trip, any part of which occurs in Area B or Area C, as described in § 660.33(a)(2) or (a)(3). The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder. The notice must be provided to the telephone number designated by the Regional Administrator. The notice must provide the official number of the vessel, the name of the vessel, the intended departure date, time, and location, the name of and telephone number of the agent designated by the permit holder to be available between 8:00 a.m. to 5 p.m. (Hawaii time) on weekdays for NMFS to contact in order to arrange observer placement.

§ 660.28 [Amended]

4. In § 660.28, paragraph (c) is suspended.

5. New § 660.33 is added to subpart C to read as follows:

§ 660.33 Hawaii emergency closure.

(a) *Longline fishing restricted areas.*

(1) "Area A", as used in this section, is defined as all waters bounded on the south by 28° N. lat., on the north by 44° N. lat., on the east by 150° W. long., and on the west by 168° W. long. (see Figure 2 to this section).

(2) "Area B", as used in this section, is defined as all waters bounded on the south by 28° N. lat., on the north by 44° N. lat., on the east by 137° W. long., and on the west by 150° W. long; and all waters bounded on the south by 28° N. lat., on the north by 44° N. lat., on the east by 168° W. long., and on the west by 173° E. long. (see Figure 2 to this section).

(3) "Area C", as used in this section, is defined as all waters bounded on the south by 0° latitude, on the north by 28° N. lat., on the east by 137° W. long., and on the west by 173° E. long. (see Figure 2 to this section).

(b) *Longline fishing restrictions in Area A.* (1) A vessel registered for use under a Hawaii longline limited access

permit may not use longline gear to fish for Pacific pelagic management unit species in Area A.

(2) A vessel registered for use under a receiving vessel permit may not receive from another vessel Pacific pelagic management unit species in Area A.

(3) A vessel registered for use under a Hawaii longline limited access permit or receiving vessel permit may not land or transship Pacific pelagic management unit species that were harvested with longline gear in Area A shoreward of the outer boundary of the EEZ surrounding Hawaii.

(c) *Longline fishing restrictions in Area B.* (1) A vessel registered for use under a Hawaii longline limited access permit may not use longline gear to fish for Pacific pelagic management unit species in Area B from March 15 through May 31.

(2) A vessel registered for use under a receiving vessel permit may not receive from another vessel Pacific pelagic management unit species in Area B from March 15 through May 31.

(3) A vessel registered for use under a Hawaii longline limited access permit or receiving vessel permit may not land or transship Pacific pelagic management unit species that were harvested with longline gear in Area B shoreward of the outer boundary of the EEZ surrounding Hawaii.

(4) From August 7 through December 31, 2000, the number of longline sets allowed in Area B is limited to a total of 154 sets.

(5) From January 1 through March 14, 2001, the number of longline sets allowed in Area B is limited to 77 sets.

(6) Between August 7 through December 31, 2000, the Regional Administrator shall prohibit the use of longline gear to fish for Pacific pelagic management unit species on the date and time that an estimated 154 longline sets will have been made in Area B.

(7) Between January 1 through March 14, 2001, the Regional Administrator shall prohibit the use of longline gear to fish for Pacific pelagic management unit species on the date and time that an estimated 77 longline sets will have been made in Area B.

(8) The Regional Administrator shall determine on the basis of available data when the maximum number of sets will be reached in Area B.

(9) The Regional Administrator will notify each permit holder and each operator of vessels fishing in Area B when further use of longline gear to fish for Pacific pelagic management unit species in Area B is prohibited.

(10) At least 24 hours advance notice will be given of the effective date and

time after which the use of longline gear to fish for Pacific pelagic management unit species in Area B is prohibited, as prescribed in paragraph (b)(9) of this section.

(d) *Longline fishing restrictions in Area C.* (1) A vessel registered for use under a Hawaii longline limited access permit may not use longline gear to fish for Pacific pelagic management unit species in Area C from March 15 through May 31.

(2) A vessel registered for use under a receiving vessel permit may not receive from another vessel Pacific pelagic management unit species in Area C from March 15 through May 31.

(3) Landing or transshipping Pacific pelagic management unit species, that were harvested with longline gear in Area C from March 15 through May 31, shoreward of the outer boundary of the EEZ surrounding Hawaii is prohibited.

(4) For the purpose of this section, "charity" means an entity to which a taxpayer can contribute and deduct the value of any such contribution from taxable income as a "charitable contribution" as defined by the Internal Revenue Code at 26 U.S.C. § 170(c).

(5) Within 30 days of each landing of swordfish caught by longline gear in Area C, the permit holder or operator of a vessel registered for use under a Hawaii longline limited access permit must donate to charity at least 30 percent of the total proceeds from the sale of such swordfish.

(6) A vessel registered for use under a Hawaii longline limited access permit may not possess lightsticks during a fishing trip where part (or all) of the trip involves fishing in Area C.

(7) Any longline gear deployed after November 3, 2000, by a vessel registered for use under a Hawaii longline limited access permit that fishing for Pacific pelagic management unit species in Area C, must be deployed such that the deepest point of the main longline between any two floats, i.e., the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.

(e) *Emergency closure at-sea observer coverage.* (1) A vessel registered for use under a Hawaii longline limited access permit may not use longline gear to fish for Pacific pelagic management unit species in Area B without a NMFS-approved observer aboard the vessel.

(2) A vessel registered for use under a Hawaii longline limited access permit may not use longline gear in Area C without a NMFS-approved observer aboard the vessel, unless it is issued a written waiver on a per trip basis by the Administrator, Pacific Islands Area Office, NMFS, or a designee. The waiver must be on board the vessel and make available for inspection by an authorized office any time during the trip for which the waiver is valid.

(3) The Regional Administrator may assign NMFS-approved observers to

vessels registered for use under Hawaii longline permits:

(i) Based on notice provided by the permit holder or by an agent designated by the permit holder to the Regional Administrator according under § 660.23(c), or,

(ii) According to a list containing vessel names randomly ordered by the Regional Administrator.

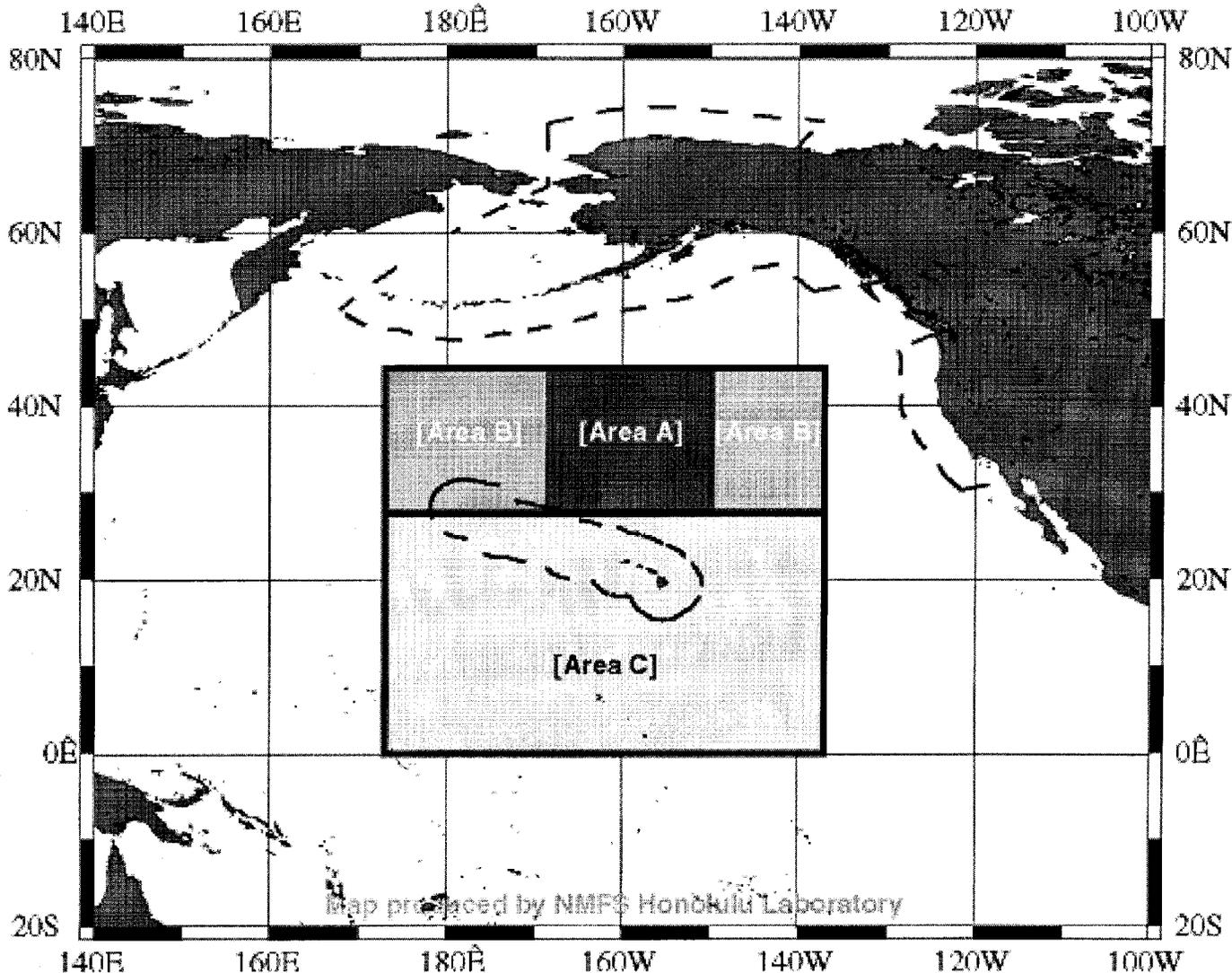
(4) When NMFS notifies the permit holder or the designated agent of the obligation to carry an observer as required under this section, the vessel may not engage in the fishery without taking the observer.

(5) An operator of a vessel registered for use under a Hawaii longline limited access permit must immediately terminate longline fishing in Area C while at sea upon notification by the Regional Administrator that the level of observer coverage is below the 10 percent or 20 percent level of observer coverage established by NMFS.

(6) An operator of a vessel registered for use under a Hawaii longline limited access permit that has been notified by the Regional Administrator as described in paragraph (e)(5) of this section is prohibited from using longline gear in Area C for the remainder of the trip, unless notified by the Regional Administrator that the prohibition has been removed for the vessel.

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FIGURE 2 TO § 660.33—LONGLINE FISHING RESTRICTED AREAS

Court-ordered Closures 8/03/2000

Area A: 44 North - 28 North, 168 West - 150 West

Area B: 44 North - 28 North, 173 East - 168 West and 150 West - 137 West

Area C: 28 North - Equator (0 North), 173 East - 137 West

[FR Doc. 01-4492 Filed 2-20-01; 1:44 pm]

BILLING CODE 3510-22 -C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1013-01; I.D. 021601A]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish by Vessels Using Non-pelagic Trawl Gear in the Red King Crab Savings Subarea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for groundfish with non-pelagic trawl gear in the red king crab savings subarea (RKCSS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the amount of the 2001 red king crab bycatch limit specified for the RKCSS.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 18, 2001, until 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT:

Andrew Smoker, 907-586-7228.

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

The 2001 red king crab bycatch limit for the RKCSS is 22,674 animals as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

In accordance with § 679.21(e)(7)(ii)(B), the Administrator,

Alaska Region, NMFS, has determined that the amount of the 2001 red king crab bycatch limit specified for the RKCSS will be caught. Consequently, NMFS is closing the RKCSS to directed fishing for groundfish with non-pelagic trawl gear.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the amount of the 2001 red king crab bycatch limit specified for the RKCSS constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 USC 553(b)(3)(B) and 50 CFR

679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the amount of the 2001 red king crab bycatch limit specified for the RKCSS constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: February 16, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 01-4411 Filed 2-16-01; 3:57 pm]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register

Vol. 66, No. 36

Thursday, February 22, 2001

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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 712

Credit Union Service Organizations (CUSOs)

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA proposes two changes to its rule concerning federal credit union (FCU) investments in and loans to credit union service organizations (CUSOs). The first proposed change clarifies that the list of permissible activities in the CUSO regulation is intended to establish broad categories of permissible activities. The listing of particular activities under these categories is meant to be illustrative not exhaustive of activities that may be permissible. In conjunction with this change, the provision for adding new activities to the regulation is amended to encourage FCUs to seek an advisory opinion from the Office of General Counsel on whether a proposed activity falls within one of the authorized categories before requesting a regulatory amendment. The second proposed change adds a federally-chartered corporation to the category of permissible structures for CUSOs.

DATES: Comments must be received on or before April 23, 2001.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. E-mail comments to regcomments@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Proposed Changes

The NCUA Board proposes revising § 712.5, the provision governing permissible CUSO activities. Currently, this section lists 17 broad categories of permissible activities and, within many of these categories, there are several subcategories. Questions have arisen from time to time about whether an activity that is not specifically listed is permissible. The Board's intent is that the listings under the broad categories are for illustrative purposes. The Board proposes revising § 712.5 to state this plainly. In conjunction with that change, the Board proposes amending the provision for adding new activities to the regulation to advise FCUs to seek an advisory opinion from the Office of General Counsel as to whether a proposed activity fits into one of the authorized categories before requesting a regulatory change to add a new activity.

These amendments will reduce regulatory burden by allowing the rule to expand as technology expands. In a previous rulemaking, the Board took this same approach with respect to the permissible activity "cyber financial services." 12 CFR 712.5(d)(8). With respect to that activity, the Board agreed with the commenters and rejected listing specific permissible services because "it would be too limiting and, with changing technology, would rapidly become outdated." 64 FR 33184, 33185 (June 22, 1999).

The second proposed change concerns the structure of a CUSO formed as a corporation. The rule limits a CUSO structured as a corporation to a "corporation as established and maintained under relevant state law." 12 CFR 712.3(a). At the time the rule was drafted, that was the only type of corporate structure envisioned for a CUSO falling within one of the permissible activities. It has since been brought to the Board's attention that a CUSO engaging in permissible trust activities may wish to be chartered as a national trust company. The Federal Credit Union Act does not prohibit this structure if the trust company is not a depository institution. Therefore, the Board is revising the rule to include federally-chartered corporations. The Board cautions FCUs that there are specific prohibitions against using the CUSO authority to acquire control either directly or indirectly over other

depository institutions. 12 U.S.C. 1757(7)(I); 12 CFR 712.6.

Request for Comment

The NCUA Board is interested in receiving comments on the proposed amendments to part 712.

The NCUA Board is also interested in receiving comment on whether the categories listed in § 712.5 are sufficiently broad to cover all activities and services that relate to the routine daily operations of credit unions.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under 1 million in assets). The proposed amendments will not have a significant economic impact on a substantial number of small credit unions and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed regulation does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This proposed rule, if adopted, will apply only to federally-chartered credit unions. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

List of Subjects in 12 CFR Part 712

Administrative practices and procedure, Credit, Credit unions, Investments, Reporting and record keeping requirements.

By the National Credit Union Administration Board on February 15, 2001.
Becky Baker,
Secretary of the Board.

Proposed Rule

Accordingly, NCUA proposes to amend 12 CFR part 712 as follows:

PART 712—CREDIT UNION SERVICE ORGANIZATIONS (CUSOs)

1. The authority citation for part 712 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786.

2. Amend § 712.3 by revising the third sentence of paragraph (a) to read as follows:

§ 712.3 What are the characteristics of and what requirements apply to CUSOs?

(a) *Structure.* * * * For purposes of this part, "corporation" means a legally incorporated corporation as established and maintained under relevant federal or state law. * * *

* * * * *

4. Amend § 712.5 by revising the second sentence and adding a third sentence to the introductory paragraph to read as follows:

§ 712.5 What activities and services are preapproved for CUSOs?

* * * Otherwise, an FCU may invest in, loan to, and/or contract with only those CUSOs that are sufficiently bonded or insured for their specific operations and engaged in the preapproved activities and services related to the routine daily operations of credit unions. The specific activities listed within each preapproved category

are provided in this section as illustrations of activities permissible under the particular category, not as an exclusive or exhaustive list.

* * * * *

5. Add a sentence to the end of § 712.7 to read as follows:

§ 712.7 What must an FCU do to add activities or services that are not preapproved?

* * * Before you engage in the petition process, you should seek an advisory opinion from NCUA's Office of General Counsel as to whether a proposed activity is already covered by one of the authorized categories without filing a petition to amend the regulation.

[FR Doc. 01-4362 Filed 2-21-01; 8:45 am]

BILLING CODE 7535-01-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NE-41-AD]

RIN 2120-AA64

Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) AE 3007A and AE 3007C Model Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Rolls-Royce (RR) Corporation (formerly Allison Engine Company) AE 3007A and AE 3007C model engines with high pressure turbine (HPT) 1st to 2nd stage turbine spacer part number (P/N) 23058369 installed. This proposal would require removal and replacement of the HPT 1st to 2nd stage turbine spacer P/N 23058369 before it reaches its new reduced engine cycle life limit. This proposal is prompted by the results of a detailed component analysis that indicates that the HPT 1st to 2nd stage turbine spacer stresses are higher than predicted. The actions specified by the proposed AD are intended to prevent HPT 1st to 2nd stage turbine spacer failure which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by April 23, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-NE-41-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be submitted to the Rules Docket by using the following Internet address: "9-ane-adcomment@faa.gov." Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 E. Devon Ave., Des Plaines, IL 60018; telephone (847) 294-7870, fax (847) 294-7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000-NE-41-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-NE-41-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

The manufacturer's original analysis of the HPT 1st to 2nd stage turbine spacer P/N 23058369 low-cycle fatigue life computed a cleared life of 20,000 cycles. When the part number was reanalyzed for low-cycle fatigue life, it was determined that the stress concentration factor in the cooling slots was incorrect and the stresses associated with the forward cooling slots were higher than predicted. The updated analysis indicates that the low-cycle fatigue life limit of P/N 23058369 should be reduced from 20,000 cycles to 9,400 cycles.

Since an unsafe condition has been identified that is likely to exist or develop on other RR AE 3007A and AE 3007C model engines of the same type design, the proposed AD would require removal and replacement of HPT 1st to 2nd stage turbine spacer P/N 23058369 before it reaches its new reduced engine cycle life limit. This condition, if not corrected, could result in HPT 1st to 2nd stage turbine spacer failure, which could result in an uncontained engine failure and damage to the airplane.

Economic Impact

There are approximately 378 engines of the affected design in the worldwide fleet. The FAA estimates that 300 engines installed on 150 airplanes of U.S. registry would be affected by this proposed AD. It will take approximately 13 work hours per engine to accomplish the removal and replacement of the affected HPT 1st to 2nd stage spacer. The 13 work hours cited include teardown and rebuilding from the module level, but not engine removal. Engines are rarely scheduled off-wing solely for the purpose of replacement of time-expired components. The average labor rate is \$60 per work hour. Required parts will cost approximately \$10,012 per engine. Based on these figures, the FAA estimates the total cost impact of the proposed AD on U.S. operators, to be \$3,237,600. Because most of the fleet field parts are below the new value, special scheduling should not be required.

Regulatory Impact

This proposed 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 proposed rule.

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Rolls-Royce Corporation: Docket No. 2000-NE-41-AD.

Applicability: This AD is applicable to Rolls-Royce (RR) Corporation (formerly Allison Engine Company) AE 3007A and AE 3007C model engines with high pressure turbine (HPT) 1st to 2nd stage turbine spacer part number (P/N) 23058369 installed. These engines are installed on but not limited to Empresa Brasileira de Aeronautica S.A. (EMBRAER) EMB-145 and Cessna 750 series airplanes.

Note 1: This airworthiness directive (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 accomplished previously.

To prevent HPT 1st to 2nd stage turbine spacer-failure, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

New Reduced Engine Cycle Life Limit

(a) For all RR Corporation AE 3007A and AE 3007C model engines with HPT 1st to 2nd stage turbine spacer, P/N 23058369 installed, remove spacer before reaching the new reduced engine cycle life limit of 9,400 cycles and replace with a serviceable part.

(b) Revise the airworthiness limitations section of the Instruction for Continued Airworthiness, as follows: P/N 23058369=9,400 cycles.

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

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

Special Flight Permits

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

Issued in Burlington, Massachusetts, on February 13, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01-4393 Filed 2-21-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08-01-002]

RIN 2115-AE47

Drawbridge Operation Regulation; Inner Harbor Navigation Canal, New Orleans, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a change to the regulation governing the operation of the SR 46 (St. Claude Avenue) bridge, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), the SR 39 (Judge Seeber/Claiborne Avenue) bridge, mile 0.9 (GIWW mile 6.7E), and the Florida Avenue bridge, mile 1.7 (GIWW mile 7.5E), across the Inner Harbor Navigation Canal in New Orleans, Orleans Parish, Louisiana. The proposal would codify the historic accommodation with marine interests that allows the bridges to remain closed-to-navigation and open to vehicular traffic during the morning and afternoon rush hours. The proposed regulation would require the bridges to open on signal; except that, from 6:45 a.m. to 8:30 a.m. and from 4:45 p.m. to 6:45 p.m., Monday through Friday, except federal holidays, the draws need not open for the passage of vessels. The draws shall open at any time for a vessel in distress. This change would allow for the uninterrupted flow of commuter traffic while still providing for the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before April 23, 2001.

ADDRESSES: You may mail comments to Commander (obc), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130-3396, or deliver them to room 1313 at the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration Branch, Eighth Coast Guard District between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, 504-589-2965.

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 (CGD08-01-002), 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 confirmation of receipt of your comments, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of comments received.

Public Meeting

We do not now plan to hold a public meeting. You may submit a request for a public meeting by writing to the Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why a public meeting would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place to be announced in the **Federal Register**.

Background and Purpose

To meet the needs of commuters who cross these three bridges in the morning and afternoon en route to and from work in the Lower Ninth Ward area of New Orleans and in St. Bernard Parish, the Coast Guard is proposing to codify the historic accommodation with marine interests that allows the bridges to remain closed-to-navigation and open to vehicular traffic during the morning and afternoon rush hours.

Concerns regarding the ability of vehicular traffic to transit across the Inner Harbor Navigation Canal date back to the 1970's. In June 1976, five New Orleans area legislators, in conjunction with the Dock Board, requested a change in the operating regulations governing their bridges across the Inner Harbor Navigation Canal. The Coast Guard spent many months attempting to reach an amiable resolution to the concerns of both vehicular and marine traffic. In April 1977, the Coast Guard began a test schedule to allow the three bridges to remain closed-to-navigation during the morning and evening while attempting to meet the reasonable needs of navigation.

In August 1977, a second schedule was tested which made some modifications to the original test schedule. No final rule was published following the test period; however, the schedule remained in effect and this schedule continued until 1988.

In 1988, the Louisiana Statute RS 34:28 was amended to require both the St. Claude Avenue and Claiborne Avenue bridges be kept open to vehicular traffic for extended periods during morning and evening rush hours. The Coast Guard objected to the statute stating that the federal government

exercises jurisdiction over the operation of bridges over navigable waters. A subsequent Louisiana Attorney General's opinion on Act 453 of 1988 ruled it to be unconstitutional.

In December 1988, the Dock Board, the Corps of Engineers, a representative from the American Waterways Operators, and the Coast Guard met to discuss the operations of the bridges. It was reiterated that the St. Claude bridge, immediately adjacent to the south lock gate of the lock, was controlled by the operations of the lock. It was determined at this meeting that the lock would schedule a river-to-lake lockage followed immediately by a lake-to-river lockage to encompass the rush hour time frame. Following the meeting, another test schedule for the operation of the bridges was published in the Coast Guard Local Notice to Mariners, the local newspaper and by notice from the Port of New Orleans as follows:

(1) Morning Bridge Operations: 6:45 a.m.-8:15 a.m., Monday through Friday.
 (a) St. Claude Avenue bridge—Closed-to-navigation between 6:45 a.m. and 7 a.m. and remains closed for a continuous one hour period, with the next opening no earlier than 7:45 a.m.;
 (b) Claiborne Avenue bridge—Closed-to-navigation from 6:45 a.m. to 8:15 a.m.;
 (c) Florida Avenue bridge—Open to northbound and southbound navigation traffic during one opening not to exceed 10 minutes between 7 a.m. and 8 a.m.

(2) Afternoon Bridge Operations: 4:30 p.m.-6:30 p.m., Monday through Friday.
 (a) St. Claude Avenue bridge—Closed-to-navigation between 4:45 p.m. and 5:15 p.m. and remains closed for a continuous one hour period, with the next opening no earlier than 5:45 p.m.;
 (b) Claiborne Avenue bridge—Closed-to-navigation from 4:30 p.m. to 6:30 p.m.;
 (c) Florida Avenue bridge—Open to northbound and southbound navigation traffic during one opening not to exceed 10 minutes between 5 p.m. and 6 p.m.

This schedule was to be tested for a three-month period. However, during that three-month period, a vessel allision occurred at the Florida Avenue bridge which made the test invalid. The test was continued past this period and no Special Operation Regulation was ever completed.

In 1994, the Coast Guard wrote a letter to the Dock Board to request a meeting to discuss the operation of the lock and bridges as no official Special Operation Regulations had ever been established for the three bridges. Following the meeting, hours for closure for the St. Claude bridge were extended to 6:45 a.m. to 8:15 a.m. and 4:30 p.m. to 6:30

p.m. and the hours for closure for the Florida Avenue bridge were extended to 6:30 a.m. to 8:30 a.m. and 4:30 p.m. to 6:30 p.m.

Since 1988, our office has received only one complaint from a vehicular user of the St. Claude bridge regarding traffic delays at the bridge. No complaints have been received from waterway users.

During the past several years, although no regulation has ever been established, all parties have accepted the spirit of the "closure".

The Coast Guard wishes to codify the accepted historic practices of these three bridges. Presently, the Inner Harbor Navigation Canal Lock averages 32 lockings per day. During the hours of 6:45 a.m. to 8:15 a.m., vehicular traffic averages between 400 and 600 vehicles westbound and between 100 and 200 vehicles eastbound per 15 minute period on the St. Claude Avenue bridge. During the hours of 4:45 p.m. to 6:15 p.m., vehicular traffic averages between 400 and 500 vehicles eastbound and between 100 and 200 vehicles westbound per 15 minute period on the St. Claude Avenue bridge. The Florida Avenue bridge averages approximately 1100 cars during the entire morning curfew and approximately 800 cars during the entire afternoon curfew period. Traffic counts for the SR 39 (Judge Seeber/Claiborne Avenue) were unavailable; however, Claiborne Avenue is the main artery for traffic between Orleans and St. Bernard Parishes and traffic counts would be expected to be higher on this roadway. The Claiborne Avenue bridge also provides a vertical clearance of 40 feet above mean high water in the closed-to-navigation position, which is significantly greater than the other two bridges.

Another factor to be considered is the relocation of the Industrial Canal Lock. The Corps of Engineers has begun driving test piles to relocate the existing lock. The new lock will be located between the Florida Avenue bridge and the Claiborne Avenue bridge. The Florida Avenue bridge has been declared an obstructive bridge and will be replaced within the next several years. During the relocation of the lock, the St. Claude Avenue bridge will be replaced by a new bridge. A temporary bridge is planned to be constructed while the existing bridge is removed and replaced. The Claiborne Avenue bridge will be modified to increase the elevation of the bridge to maintain the existing vertical clearance of the bridge following the relocation of the lock. The subject closures will help relieve traffic-related congestion resulting from construction. As of this date, only the

Florida Avenue bridge is scheduled to be replaced. No other bridge permit applications have been received by the Coast Guard at this time.

The Coast Guard has reviewed the implications of the proposed regulations and their effect on the marine traffic transiting through this area. The proposed rule would establish the same operation schedules for all three draws to facilitate the flow of vehicular traffic during rush hours while still meeting the reasonable needs of navigation.

Based upon the information provided, the Coast Guard is proposing a change to the regulation governing the operation of the draws of the SR 46 (St. Claude Avenue) bridge, mile 0.5 (GIWW mile 6.2E), the SR 39 (Judge Seeber/Claiborne Avenue) bridge, mile 0.9 (GIWW mile 6.7E), and the Florida Avenue bridge, mile 1.7 (GIWW mile 7.5E), across the Inner Harbor Navigation Canal in New Orleans, Orleans Parish, Louisiana. The proposed regulation would require the bridges to open on signal; except that, from 6:45 a.m. to 8:30 a.m. and from 4:45 p.m. to 6:45 p.m., Monday through Friday, except federal holidays, the draws need not open for the passage of traffic. The draws shall open at any time for a vessel in distress.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This proposed rule maintains the existing historically accepted curfews with a minor change allowing the bridge to remain closed-to-navigation an additional 30 minutes.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not

dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following small entities: the owners or operators of vessels intending to transit the Inner Harbor Navigation Canal between mile 0.5 and mile 1.7 during the hours of 6:45 a.m. to 8:30 a.m. and 4:45 p.m. to 6:45 p.m., Monday through Friday except federal holidays.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Bridge Administration Branch, Eighth Coast Guard District at the address above.

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

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

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 does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. This proposal will change an existing special drawbridge operating regulation promulgated by a Coast Guard Bridge Administration Program action. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. In § 117.458, paragraphs (a) and (b) are redesignated as paragraphs (b) and (c) and a new paragraph (a) is added to read as follows:

§ 117.458 Inner Harbor Navigation Canal, New Orleans.

(a) The draws of the SR 46 (St. Claude Avenue) bridge, mile 0.5 (GIWW mile

6.2E), the SR 39 (Judge Seeber/Claiborne Avenue) bridge, mile 0.9 (GIWW mile 6.7E), and the Florida Avenue bridge, mile 1.7 (GIWW mile 7.5E), shall open on signal; except that, from 6:45 a.m. to 8:30 a.m. and from 4:45 p.m. to 6:45 p.m., Monday through Friday, except federal holidays, the draws need not open for the passage of vessels. The draws shall open at any time for a vessel in distress.

* * * * *

Dated: February 12, 2001.

Paul J. Pluta,

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

[FR Doc. 01-4331 Filed 2-21-01; 8:45 am]

BILLING CODE 4910-15-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-336; MM Docket No. 01-36, RM-10047]

Radio Broadcasting Services; Jamestown, Alfred, Canaseraga, NY; and DuBois, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Vox Allegany, LLC, requesting the substitution of Channel 270B1 for Channel 270A at Jamestown, New York, and the modification of Station WHUG(FM)'s license accordingly. To accommodate the upgrade, petitioner also proposes the substitution of Channel 246A for Channel 270A at Alfred, New York, and the modification of Station WZKZ(FM)'s license accordingly; the substitution of Channel 270A for vacant Channel 246A at Canaseraga, New York; and the modification of the reference coordinates of Station WMOU-FM, Channel 271B, Du Bois, Pennsylvania. Channel 270B1 can be substituted at Jamestown in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.9 kilometers (4.9 miles) south at petitioner's requested site. The coordinates for Channel 270B1 Jamestown are 42-12-40 North Latitude and 79-22-40 West Longitude. *See* Supplementary Information, *supra*.

DATES: Comments must be filed on or before April 2, 2001, reply comments on or before April 17, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In

addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David G. O'Neil, Esq., 1350 Connecticut Ave., NW., Suite 900, Washington, DC 20036-1701 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT:

Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Order to Show Cause, MM Docket No. 01-36, adopted January 31, 2001, and released February 9, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Additionally, Channel 246A can be substituted at Alfred with a site restriction of 7.9 kilometers (4.9 miles) south at Station WZKZ(FM)'s presently authorized site; Channel 270A can be substituted at Canaseraga with a site restriction of 8.8 kilometers (5.5 miles) east at petitioner's requested site; and the reference coordinates for Channel 271B at Du Bois can be modified with a site restriction of 20.3 kilometers (12.6 miles) east at petitioner's requested site. The coordinates for Channel 246A at Alfred are 42-11-25 North Latitude and 77-49-17 West Longitude; the coordinates for Channel 270A at Canaseraga are 42-26-21 North Latitude and 77-40-29 West Longitude; and the coordinates for Channel 271B at Du Bois are 42-11-25 North Latitude and 77-49-17 West Longitude. The allotment of Channel 270B1 at Jamestown will result in a short-spacing to Station CFNY-FM, Channel 271C1, Brampton, Ontario. Therefore, since Jamestown, Alfred, Canaseraga, and Du Bois are located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been requested, with the allotment at Jamestown being sought as a specially negotiated, short-spaced allotment. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for the use of Channel 270B1 at Jamestown, or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 270A and adding Channel 246A at Alfred; removing Channel 246A and adding Channel 270A at Canaseraga; removing Channel 270A and adding Channel 270B1 at Jamestown.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01-4322 Filed 2-21-01; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AH70

Endangered and Threatened Wildlife and Plants; Determinations of Prudency and Proposed Designations of Critical Habitat for Plant Species From the Islands of Maui and Kahoolawe, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period, and public hearing announcement.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a public hearing on the prudency determinations for 38 plants, and the proposed critical habitat designations for 50 plants from the islands of Maui and Kahoolawe, Hawaii. In addition, the comment period which originally closed on February 16, 2001, will be reopened. The new comment period and hearing will allow all interested parties to submit oral or written comments on the proposal. We are seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: The comment period for this proposal now closes on April 2, 2001. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held from 1:00 p.m. to 3:00 p.m. and 6:00 p.m. to 8:00 p.m. on March 20, 2001, on the island of Maui, Hawaii. Prior to the public hearing, the Service will be available from 12:30 to 1:00 p.m. and from 5:30 p.m. to 6:00 p.m. to provide information and to answer questions. The Service will also be available for questions after each hearing session.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Ecoregion Office, 300 Ala Moana Boulevard, Room 3-122, P.O. Box 50088, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

The public hearing will be held at the Renaissance Wailea Beach Resort, Wailea Ballroom, 3550 Wailea Alanui Drive, Wailea, Hawaii.

FOR FURTHER INFORMATION CONTACT: Paul Henson, at the above address, phone 808-541-3441, facsimile 808-541-3470.

SUPPLEMENTARY INFORMATION:

Background

On December 18, 2000, the Service published notice of prudency determinations for 38 plant species and proposed designations of critical habitat for 50 plant species from the islands of Maui and Kahoolawe, Hawaii, pursuant to the Endangered Species Act of 1973, as amended (Act) in the **Federal Register** (65 FR 79192). The original comment period closed on February 16, 2001. The comment period now closes

on April 2, 2001. Written comments should be submitted to the Service (see **ADDRESSES** section).

A total of 69 species historically found on Maui and Kahoolawe were listed as endangered or threatened species under the Act between 1991 and 1999. Some of these species may also occur on other Hawaiian islands. At the time each plant was listed, with the exception of six species, we determined that designation of critical habitat was not prudent because designation would increase the degree of threat to the species and/or would not benefit the species. We determined that designation of critical habitat was prudent for *Clermontia samuelii*, *Cyanea copelandii* ssp. *haleakalaensis*, *Cyanea glabra*, *Cyanea hamatiflora* ssp. *hamatiflora*, *Dubautia plantaginea* ssp. *humilis*, and *Kanaloa kahoolawensis* at the time of their listing in 1999.

Due to litigation, we reconsidered our previous prudency determinations for 63 plants. From this review, we are proposing that critical habitat is prudent for 37 of these species because the potential benefits of designating critical habitat essential for the conservation of these species outweigh the risks of designation. We are proposing that the designation of critical habitat is not prudent for one species, *Acaena exigua*, because such designation would be of no benefit to this species, which may be extinct and for which no genetic material is currently known. In another proposed rule we determined that critical habitat was prudent for 11 species that occur on Maui and/or Kahoolawe as well as on Kauai (65 FR 66808). The remaining 14 species historically found on Maui and/or Kahoolawe, no longer occur on these islands. However, these species do occur on other islands, so proposed prudency determinations will be made in future rules addressing plants on those islands.

This proposed rule also proposes designation of critical habitat for 50 plant species. Fifty-two critical habitat units, covering 13,574 hectares (33,614 acres) on Maui and 4 units covering 207 hectares (512 acres) on Kahoolawe are proposed for designation.

Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to a request from a government agency of the State of Hawaii, the Service will hold a public hearing on the date and at the address described in the **DATES** and **ADDRESSES** sections above.

Anyone wishing to make an oral statement for the record is encouraged

to provide a written copy of their statement and present it to the Service at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to the Service. Legal notices announcing the date, time, and location of the public hearing will be published in newspapers concurrently with the **Federal Register** notice.

Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding:

(1) The reasons why critical habitat for any of these species is prudent or not prudent;

(2) The reasons why any particular area should or should not be designated as critical habitat for any of these species;

(3) Specific information on the amount and distribution of habitat for any of these species;

(4) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(5) Any economic or other relevant impacts resulting from the proposed designations of critical habitat, including any impacts on small entities or families; and

(6) Economic and other potential values associated with designating critical habitat for the 50 plant species such as those derived from non-consumptive uses (e.g., hiking, camping, birding, enhanced watershed protection, increased soil retention, "existence values", and reductions in administrative costs).

Reopening of the comment period will enable the Service to respond to the request for a public hearing on the proposed action. The comment period on this proposal now closes on April 2, 2001. Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author

The primary authors of this notice are Christa Russell and Michelle Stephens (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: February 13, 2001.

Rowan W. Gould,

Acting Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 01-4379 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AH08

Endangered and Threatened Wildlife and Plants; Determinations of Whether Designation of Critical Habitat is Prudent for 20 Plant Species and the Proposed Designations of Critical Habitat for 32 Plant Species From the Island of Molokai, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period, and public hearing announcement.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a public hearing on the prudency determinations for 20 plants, and the proposed critical habitat designations for 32 plants from the island of Molokai, Hawaii. In addition, the comment period which will close on February 27, 2001, will be extended. The new comment period and hearing will allow all interested parties to submit oral or written comments on the proposal. We are seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: The comment period for this proposal now closes on April 2, 2001. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held from 6:00 p.m. to 8:00 p.m. on March 21, 2001, on the island of Molokai, Hawaii. Prior to the public hearing, the Service will be available from 5:30 p.m. to 6:00 p.m. to provide information and to answer questions. The Service will also be available for questions after the hearing.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Ecoregion Office, 300 Ala Moana Boulevard, Room 3-122, P.O. Box 50088, Honolulu, Hawaii 96850.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

The public hearing will be held at the Mitchell Pauole Center Hall, 90 Ainoa Street, Kaunakakai, Hawaii.

FOR FURTHER INFORMATION CONTACT: Paul Henson, at the above address, phone 808-541-3441, facsimile 808-541-3470.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 2000, the Service published notice of prudency determinations for 20 plant species and proposed designations of critical habitat for 32 plant species from the island of Molokai, Hawaii, pursuant to the Endangered Species Act of 1973, as amended (Act) in the **Federal Register** (65 FR 83158). The original comment period will close on February 27, 2001. The comment period now closes on April 2, 2001. Written comments should be submitted to the Service (see **ADDRESSES** section).

A total of 49 species historically found on Molokai were listed as endangered or threatened species under the Act between 1991 and 1999. Some of these species may also occur on other Hawaiian islands. At the time each plant was listed, with the exception of one species, we determined that designation of critical habitat was not prudent because designation would increase the degree of threat to the species and/or would not benefit the species. We determined that designation of critical habitat was prudent for *Labordia triflora* at the time of its listing in 1999.

Due to litigation, we reconsidered our previous prudency determinations for 48 plants. From this review, we are proposing that critical habitat is prudent for 19 of these species because the potential benefits of designating critical habitat essential for the conservation of these species outweigh the risks of designation. We are proposing that the designation of critical habitat is not prudent for one species, *Pritchardia munroi*, because it would likely increase the threat from vandalism or collection of this species on Molokai. In other proposed rules we determined that critical habitat was prudent for 19 species that occur on Molokai as well as on Kauai, Niihau, Maui, Kahoolawe, and/or Lanai (65 FR 66808; 65 FR 79192; 65 FR 82086). The remaining nine species historically found on Molokai, no longer occur on this island. However, these species do occur on other islands, so proposed prudency determinations will be made in future rules addressing plants on those islands.

This proposed rule also proposes designation of critical habitat for 32 plant species. Twenty-eight critical habitat units, covering 6,446 hectares (15,930 acres) (these numbers were incorrectly given as 6,163 hectares (15,228 acres) in 65 FR 83158), are

proposed for designation on the island of Molokai.

Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to a request from a government agency of the State of Hawaii, the Service will hold a public hearing on the date and at the address described in the **DATES** and **ADDRESSES** sections above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the Service at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to the Service. Legal notices announcing the date, time, and location of the public hearing will be published in newspapers concurrently with the **Federal Register** notice.

Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding:

(1) The reasons why critical habitat for any of these species is prudent or not prudent;

(2) The reasons why any particular area should or should not be designated as critical habitat for any of these species;

(3) Specific information on the amount and distribution of habitat for any of these species;

(4) Land use permits and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(5) Any economic or other relevant impacts resulting from the proposed designations of critical habitat, including any impacts on small entities or families; and

(6) Economic and other potential values associated with designating critical habitat for the 32 plant species such as those derived from non-consumptive uses (*e.g.*, hiking, camping, birding, enhanced watershed protection, increased soil retention, "existence values", and reductions in administrative costs).

Reopening of the comment period will enable the Service to respond to the request for a public hearing on the proposed action. The comment period on this proposal now closes on April 2, 2001. Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author

The primary authors of this notice are Christa Russell and Michelle Stephens (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 **ET SEQ.**).

Dated: February 13, 2001.

Rowan W. Gould,

Acting Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 01-4380 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AH10

Endangered and Threatened Wildlife and Plants; Prudency Determinations for Eight Plant Species From the Hawaiian Islands, and Proposed Critical Habitat Designations for Eighteen Plant Species From the Island of Lanai, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period, and public hearing announcement.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a public hearing on the prudency determinations for 8 plants and the proposed critical habitat designations for 18 plants from the island of Lanai, Hawaii. In addition, the comment period which will close on February 26, 2001, will be extended. The new comment period and hearing will allow all interested parties to submit oral or written comments on the proposal. We are seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: The comment period for this proposal now closes on April 2, 2001. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held from 6:00 p.m. to 8:00 p.m. on March 22, 2001, on the island of Lanai, Hawaii. Prior to the public hearing, the Service will be available from 5:30 p.m. to 6:00 p.m. to provide information and to answer

questions. The Service will also be available for questions after the hearing.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Ecoregion Office, 300 Ala Moana Boulevard, Room 3-122, P.O. Box 50088, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address. The public hearing will be held at the Lanai Public Library Meeting Room, Fraser Avenue, Lanai City, Hawaii.

FOR FURTHER INFORMATION CONTACT: Paul Henson, at the above address, phone 808-541-3441, facsimile 808-541-3470.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 2000, the Service published notice of prudency determinations for 8 plant species and proposed designations of critical habitat for 18 plant species from the island of Lanai, Hawaii, pursuant to the Endangered Species Act of 1973, as amended (Act) in the **Federal Register** (65 FR 82086). The original comment period will close on February 26, 2001. The comment period now closes on April 2, 2001. Written comments should be submitted to the Service (see **ADDRESSES** section).

A total of 37 species historically found on Lanai were listed as endangered or threatened species under the Act between 1991 and 1999. Some of these species may also occur on other Hawaiian islands. At the time each plant was listed, with the exception of three species, we determined that designation of critical habitat was not prudent because designation would increase the degree of threat to the species and/or would not benefit the species. We determined that designation of critical habitat was prudent for *Hedyotis schlehtendahlia* var. *remyi*, *Labordia tinifolia* var. *lanaiensis*, and *Melicope munroi* at the time of their listing in 1999.

Due to litigation, we reconsidered our previous prudency determinations for 34 plants. From this review, we are proposing that critical habitat is prudent for eight of these species because the potential benefits of designating critical habitat essential for the conservation of these species outweigh the risks of designation. We are proposing that the designation of critical habitat is not prudent for one species, *Phyllostegia grabra* var. *lanaiensis*, which is no longer extant in the wild, and for which no genetic material is currently known.

Such designation would not be beneficial to this species. In other proposed rules we determined that critical habitat was prudent for nine species that occur on Lanai as well as on Kauai, Niihau, Maui, or Kahoolawe (65 FR 66808; 65 FR 79192). The remaining 17 species historically found on Lanai no longer occur on this island. However, these species do occur on other islands, so proposed prudency determinations will be made in future rules addressing plants on those islands.

This proposed rule also proposes designation of critical habitat for 18 plant species. Ten critical habitat units, covering 1,953 hectares (4,826 acres), are proposed for designation on the island of Lanai.

Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to a request from a government agency of the State of Hawaii, the Service will hold a public hearing on the date and at the address described in the **DATES** and **ADDRESSES** sections above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the Service at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to the Service. Legal notices announcing the date, time, and location of the public hearing will be published in newspapers concurrently with the **Federal Register** notice.

Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding:

(1) The reasons why critical habitat for any of these species is prudent or not prudent;

(2) The reasons why any particular area should or should not be designated as critical habitat for any of these species;

(3) Specific information on the amount and distribution of habitat for any of these species;

(4) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(5) Any economic or other relevant impacts resulting from the proposed designations of critical habitat, including any impacts on small entities or families; and

(6) Economic and other potential values associated with designating

critical habitat for the 18 plant species such as those derived from non-consuming uses (e.g., hiking, camping, birding, enhanced watershed protection, increased soil retention, "existence values", and reductions in administrative costs).

Reopening of the comment period will enable the Service to respond to the request for a public hearing on the proposed action. The comment period on this proposal now closes on April 2, 2001. Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author

The primary authors of this notice are Christa Russell and Michelle Stephens (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: February 13, 2001.

Rowan W. Gould,

Acting Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 01-4381 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AG13

Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period on Proposed Critical Habitat for Wintering Piping Plovers

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, provide notice that the public comment period on the proposed rule to designate critical habitat for wintering piping plovers (*Charadrius melodus*) is hereby reopened. Comments submitted during the prior comment periods need not be resubmitted as they will be incorporated into the public record and will be fully considered in the final determination on the proposal.

DATES: The original comment period, scheduled to close on September 5, 2000, was extended until November 24, 2000. The comment period is now reopened and will close on March 1, 2001. Comments from all interested parties must be received by the closing date. Any comments that are received

after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: Written comments may be submitted to the Field Supervisor, Ecological Services Field Office, c/o TAMUCC, Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412; by facsimile at (361) 994-8262; or by email at winterplovercomments@fws.gov. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Allan Strand, Acting Field Supervisor, at the above address (telephone 361/994-9005).

SUPPLEMENTARY INFORMATION:

Background

The piping plover (*Charadrius melodus*) is a small North American shorebird that breeds in the Great Plains, Great Lakes, and upper Atlantic Coast states, and its winter areas include the lower Atlantic and Gulf coasts of the United States. The piping plover on its wintering areas is listed as a threatened species under the Endangered Species Act of 1973, as amended.

The U.S. Fish and Wildlife Service proposed critical habitat for wintering piping plovers on July 6, 2000 (65 FR 41782), and published extensions of the comment period on August 30, 2000 (65 FR 52691), and October 27, 2000 (65 FR 64414). The proposal includes 146 areas along the coasts of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. This includes approximately 2,734 kilometers (1,699 miles) of shoreline along the Gulf and Atlantic coasts and along margins of interior bays, inlets, and lagoons.

Section 4(b)(2) of the Endangered Species Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species. Consequently, we have prepared and made available a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment at the above Internet and mailing addresses.

Public Comments Solicited

Pursuant to regulations at 50 CFR 424.16(c)(2), we may extend or reopen a public comment period on a proposal to designate critical habitat upon finding that there is good cause to do so. Since the close of the original comment period on proposed designation of critical habitat for wintering piping plovers, we have received a number of comments which provide information relevant to the proposed designation. In the interest of considering the best scientific and commercial information available in making our final determination on the proposal, we find

that good cause exists to reopen the public comment period on this proposed action.

We solicit comments on all aspects of the critical habitat proposal, including the draft economic analysis. Our final determination on the proposed critical habitat will take into consideration comments and any additional information received by the date specified above. All previous comments and information submitted during the comment period need not be resubmitted. Written comments may be submitted to the Field Supervisor at the above address.

Author

The primary author of this notice is Steve Spangle, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: February 15, 2001.

Frank S. Shoemaker, Jr.,

Acting Regional Director, Region 2, Fish and Wildlife Service.

[FR Doc. 01-4430 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-55-P

Notices

Federal Register

Vol. 66, No. 36

Thursday, February 22, 2001

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.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Sunshine Act Meeting; Notice

TIME AND DATE: 2 pm, Wednesday, March 28, 2001.

PLACE: Cannon House Office Building, Washington, DC 20510.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Review and approval of the minutes of the March 15th, 2000 Board of Trustees meeting.
2. Report on financial status of the Foundation fund—
 - A. Review of investment policy and current portfolio.
 3. Report on results of Scholarship Review Panel—
 - A. Discussion and consideration of scholarship candidates.
 - B. Selection of Goldwater Scholars.
 4. Other Business brought before the Board of Trustees.

CONTACT PERSON FOR MORE INFORMATION: Gerald J. Smith, President, Telephone: (703) 756-6012.

Gerald J. Smith,
President.

[FR Doc. 01-4511 Filed 2-20-01; 1:20 pm]

BILLING CODE 4738-91-M

DEPARTMENT OF COMMERCE

Office of Human Resources Management

Commerce Opportunities On-Line (COOL)

ACTION: Proposed collection; Comment request.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and

other Federal agencies to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 23, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Forms Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 or via the Internet at MClayton@doc.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to the attention of Thomas R. Kreider, Computer Specialist, (301) 457-6610, U.S. Department of Commerce, Office of Human Resources Management, Office of Employment, Diversity and Classification Programs, 14th & Constitution Ave, NW., Room 5004, Washington, DC 20230, or via e-mail to tkreider@doc.gov.

SUPPLEMENTARY INFORMATION:

Abstract

Commerce Opportunities On-Line (COOL) is a web-based software system that automates the vacancy announcement, application intake, application evaluation, and application referral processes, for positions in the Department of Commerce (DOC).

In the current employment environment qualified job applicants for federal positions are in great demand. The DOC is in direct competition with private industry for the same caliber of candidates with the requisite knowledge and skills to fulfill the mission of the DOC. Consequently, it is imperative that every available technology be employed if the DOC is to remain competitive and meet hiring goals. The information provided by a job applicant will assist the Human Resources Specialists and hiring managers in determining whether an applicant meets the basic qualification requirements and is best qualified for the position being filled. In addition, the electronic transmission will expedite the hiring process by reducing the time used in application evaluation, candidate referral and selection, and in the recruitment paperwork distribution/workflow process.

COOL will provide the DOC with a more user-friendly on-line employment application process and will enable the DOC to process hiring actions in a more efficient and timely manner. The on-line application will provide an electronic real time candidate list that will allow the DOC to review applications from applicants almost instantaneously. Given the immediate hiring needs of the DOC, time consumed in the mail distribution system or paper review of applications delays the decision-making process by several weeks. The implementation of the COOL electronic application will result in increased speed and accuracy in the employment process. It will also streamline labor and reduce costs.

The use of the COOL on-line application fully meets the intent of 5 U.S.C. 2301, which requires that Federal personnel management be implemented consistent with merit system principles.

Since the COOL on-line application will be used as an alternative form of employment application, the collection and use of the information requires Office of Management and Budget (OMB) approval as outlined in Section 6.1 of the Delegated Examining Operations Handbook. The Handbook provides guidance to agencies under a delegated examining authority by the Office of Personnel Management (OPM), under the provisions of 5 U.S.C. 1104.

II. Method of Collection

Application information is collected electronically from the applicant through COOL. Applicants may contact the DOC web site on the Internet where they will find the COOL on-line application and can fill out and submit the form electronically while connected to the web site. Applicants who do not have access to a personal computer are directed to the servicing Human Resources Office for a paper version of the COOL announcement and application.

III. Data

OMB Number: 0690-0019.
Type of Review: Regular collection.
Affected Public: Individuals or households and the Federal Government.

Estimated Number of Respondents: 32,832 respondents per year.

Estimated Time Per Response: It is estimated that, depending on the situation, it could take as little as 10

minutes or as long as two hours to complete the on-line application. This is determined by the nature of the position for which the applicant is applying, and whether this is the applicant's first application in COOL, or if he or she already has a resume completed in COOL, which automatically fills in approximately 75% of the application's fields. On average, the time to complete the on-line application is estimated to be 1 hour.

Estimated Total Annual Respondent Burden Hours: 32,832 hours per year.

Estimated Total Annual Respondent Cost Burden: \$820,800 per year.

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 will 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, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 16, 2001.

Madeleine Clayton,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01-4389 Filed 2-21-01; 8:45 am]

BILLING CODE 3510-17-P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Census Advisory Committees

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92-463, as amended by Pub. L. 94-409, Pub. L. 96-523, and Pub. L. 97-375), we are giving notice of the following Census Advisory Committee (CAC) meetings:

- The CACs on the African American Population, the American Indian and

Alaska Native Populations, the Asian Population, the Native Hawaiian and Other Pacific Islander Populations, and the Hispanic Population to be held on March 14, 2001.

- The Joint CAC meeting of the CACs on Race and Ethnic Populations, the CAC of Professional Associations, and the Decennial CAC to be held on March 15, 2001.

- The Decennial CAC meeting to be held on March 16, 2001.

The Joint Advisory Committee Meeting on March 15 will discuss the Census Bureau's Executive Steering Committee on the Accuracy and Coverage Evaluation Policy's recommendation on whether or not to release statistically adjusted Pub. L. 94-171 data products for redistricting. The meetings on March 14 and 16 will discuss selected Census 2000 evaluations and provide opportunities for the Committees to hold working groups on decennial planning issues. We are still finalizing the other details of the meetings' agendas.

DATES: On Wednesday, March 14, 2001, the meeting will begin at 11:30 a.m. and adjourn at 5 p.m. On Thursday, March 15, 2001, the meeting will begin at 8:45 a.m. and adjourn at 5:15 p.m. On Friday, March 16, 2001, the meeting will begin at 8:30 a.m. and adjourn at 1:30 p.m.

ADDRESSES: The meetings will be held at the Doubletree Hotel, 300 Army Navy Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 3631, Federal Building 3, Washington, DC 20233, telephone: (301) 457-2070.

SUPPLEMENTARY INFORMATION: The CACs on the African American Population, American Indian and Alaska Native Populations, the Asian Population, the Native Hawaiian and Other Pacific Islander Populations, and the Hispanic Population are composed of nine members each, appointed by the Secretary of Commerce. The Committees advise the Director, U.S. Census Bureau, and provide an organized and continuing channel of communication between the communities they represent and the Census Bureau on issues concerning race and ethnicity and on issues related to the 2010 Decennial Census, the American Community Survey (ACS), and related programs.

The CAC of Professional Associations is composed of 36 members, appointed by the Presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairman of the Board of the American

Marketing Association. The Committee advises the Director, U.S. Census Bureau, on the full range of Census Bureau programs and activities in relation to the areas of expertise.

The Decennial Census Advisory Committee is composed of a Chair, Vice Chair, and up to 40 member organizations, each appointed by the Secretary of Commerce. The Committee considers the goals of the decennial census and users' needs for information provided by that census. The Committee advises the Secretary of Commerce on policy, research, technological-related issues for the design of the 2010 decennial census, the ACS, and other related programs.

A brief period will be set aside for public comment. However, individuals with extensive statements for the record must submit them in writing to the Commerce Department official named above at least three working days prior to the meeting.

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer on (301) 457-2070, TDD (301) 457-2540.

Dated: February 14, 2000.

James Lee Price,

Acting Under Secretary for Economic Affairs, Economics and Statistics Administration.

[FR Doc. 01-4358 Filed 2-21-01; 8:45 am]

BILLING CODE 3510-07-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-824]

Polyvinyl Alcohol From Taiwan: Preliminary Results of Fourth Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of fourth antidumping duty administrative review.

SUMMARY: In response to a request by Chang Chun Petrochemical Co., Ltd.,¹ a producer and exporter of polyvinyl alcohol from Taiwan, the Department of Commerce is conducting an administrative review of the antidumping duty order on polyvinyl

¹ On January 19, 2001, counsel for Air Products and Chemicals, Inc. ("the petitioner") stated that the petitioner's PVA business was sold to Celanese Ltd.

alcohol from Taiwan. The period of review is May 1, 1999, through April 30, 2000.

We preliminarily find that sales of subject merchandise have not been made below normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service not to assess antidumping duties on entries for which the importer-specific rate is *de minimis* (i.e., less than 0.5 percent). Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 22, 2001.

FOR FURTHER INFORMATION CONTACT:

Brian Ledgerwood, at (202) 482-3836, or Brian Smith, at (202) 482-1766, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act"), as amended, by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all references are made to the Department of Commerce's ("the Department's") final regulations at 19 CFR Part 351 (2000).

Case History

On May 14, 1996, the Department published in the **Federal Register** an antidumping duty order on polyvinyl alcohol ("PVA") from Taiwan. *See* 61 FR 24286. On May 16, 2000, the Department published a notice providing an opportunity to request an administrative review of this order for the period May 1, 1999, through April 30, 2000 (65 FR 31141). On May 31, 2000, we received a timely request for an administrative review from Chang Chun Petrochemical Co., Ltd. ("Chang Chun"). In addition, Chang Chun requested that the Department revoke the antidumping duty order with respect to it. On May 31, 2000, we received a timely request for an administrative review from the petitioner. On July 7, 2000, we published a notice of initiation of this review for Chang Chun (65 FR 41942).

On June 30, 2000, we issued an antidumping questionnaire to Chang Chun. Because the Department disregarded sales that failed the cost test in the last completed review for Chang Chun (at that time) (*see Polyvinyl Alcohol from Taiwan: Final Results of*

Second Antidumping Duty Administrative Review, 64 FR 32024, 32025 (June 15, 1999) (hereafter "*Second Administrative Review—PVA*")), the Department had reasonable grounds to believe or suspect that Chang Chun's sales of the foreign like product may have been made at prices below the cost of production ("COP") as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether Chang Chun made home market sales during the period of review ("POR") at prices below its COP, and required Chang Chun to respond to the COP section of the questionnaire issued on June 30, 2000.

The Department received Chang Chun's response in August 2000. We issued a supplemental questionnaire to Chang Chun in October 2000. The response to this questionnaire was received in November 2000. On October 6, 2000, Chang Chun withdrew its request for revocation, in part, of the antidumping duty order on polyvinyl alcohol from Taiwan.

Scope of Review

The product covered by this review is PVA. PVA is a dry, white to cream-colored, water-soluble synthetic polymer. This product consists of polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid. Excluded from this review are PVAs covalently bonded with acetoacrylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, and PVAs covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. PVA in fiber form is not included in the scope of this review.

The merchandise under review is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope is dispositive.

Period of Review

The POR is May 1, 1999, through April 30, 2000.

Fair Value Comparisons

To determine whether sales of the subject merchandise to the United States were made at prices below normal value, we compared the export price to normal value as described below. In accordance with section

777A(d)(2) of the Act, we compared the export price of individual transactions to the monthly weighted-average price of sales of the foreign like product made in the ordinary course of trade (*see* section 773(a)(1)(B)(i) of the Act).

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Chang Chun covered by the description in the "Scope of Review" section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the U.S. sale and until two months after the sale. Where there were no sales of identical merchandise made in the home market in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by Chang Chun in the following order: viscosity, hydrolysis, particle size, tackifier, defoamer, ash, color, volatiles, and visual impurities.

Export Price

In accordance with sections 772(a) and (c) of the Act, we calculated an export price for all of Chang Chun's sales since the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation, and because constructed export price methodology was not otherwise warranted based on the facts of the record. We calculated export price based on the packed, CIF or FOB prices to unaffiliated purchasers in, or for exportation to, the United States. We made deductions, where appropriate, from the starting price for foreign inland freight, foreign brokerage and handling, international freight (including harbor construction taxes), and marine insurance in accordance with section 772(c)(2)(A) of the Act.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared Chang Chun's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise, in

accordance with 19 CFR 351.404(b). For Chang Chun, we determined that the quantity of foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States because Chang Chun had sales in its home market which were greater than five percent of its sales in the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value on sales in Taiwan.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determined normal value based on sales in the comparison market at the same level of trade ("LOT") as the export price transaction. The normal value LOT is that of the starting-price sales in the comparison market or, when normal value is based on constructed value, that of the sales from which we derive selling, general, and administrative ("SG&A") expenses and profit. For export price, the LOT is also the level of the starting-price sale, which is usually from the exporter to the importer.

To determine whether normal value sales are at a different LOT than export price sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. See *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732-33 (November 19, 1997).

As in previous administrative reviews, Chang Chun reported one channel of distribution for its U.S. and home market sales (see *Second Administrative Review—PVA*, 64 FR 32024 (June 15, 1999); *Notice of Final Results of Third Antidumping Duty Administrative Review: Polyvinyl Alcohol from Taiwan*, 65 FR 60615 (October 12, 2000) (hereafter "*Third Administrative Review—PVA*"). Based on Chang Chun's submission of its reported selling functions, we found that the selling activities performed by Chang Chun in both the home market and the United States were similar. In both the home market and the U.S. market Chang Chun made sales directly

to customers and provided no post sale services (e.g., typically limited to freight and delivery arrangements). Therefore, we determined that sales in both markets are at the same LOT and consequently no LOT adjustment is warranted. (See *Final Results of Antidumping Duty Administrative Review: PVA From Taiwan*, 63 FR 32810, 32812 (June 16, 1998)).

Cost of Production

As we stated in the "Case History" section, because we disregarded sales below the COP for Chang Chun in the last completed segment of the proceeding (at that time) (see *Second Administrative Review—PVA*, 64 FR 32024 (June 15, 1999)), we had reasonable grounds to believe or suspect that Chang Chun's sales of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Chang Chun in the home market.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by grade, based on the sum of the cost of materials and fabrication, general and administrative ("G&A") expenses, and packing costs. We relied on Chang Chun's submitted COP for PVA. In addition, as we have done in the investigation and previous administrative reviews of this order, we adjusted the joint production costs between PVA and acetic acid using the relative sales value of each product calculated on the basis of a two-year period prior to the period of the less-than-fair-value ("LTFV") investigation (see January 30, 2001, preliminary results calculation memorandum and *Third Administrative Review—PVA*, 65 FR 60615 (October 12, 2000), and the accompanying Decision Memorandum at the "Margin Calculations" section).

Consistent with the prior reviews and investigation, we determined that Chang Chun purchased a major input (i.e., vinyl acetate monomer ("VAM")) used in the production of PVA from an affiliated party (See *Final Determination: Polyvinyl Alcohol from Taiwan*, 61 FR 14064, 14071 at Comment 8 and 9 (March 29, 1996)). Pursuant to 19 CFR 351.407(b), we applied the major input rule to determine the value of the VAM. Under the major input rule, we normally will determine the value of a major input purchased from an affiliated person based on the higher of: (1) the price paid

by the exporter or producer to the affiliated person for the major input; (2) the amount usually reflected in sales of the major input in the market under consideration; or (3) the cost to the affiliated person of producing the major input. In this case, for the preliminary results, we used the affiliated person's COP, which was higher than the market price or the affiliate's transfer price (see, Chang Chun's August 2000 Section D response at page D-27, Exhibits D-2 and D-10, and Chang Chun's November 2000 supplemental response at pages supp-22 and 23). Consistent with 19 CFR 351.407(b), in the previous three reviews the Department used Chang Chun's affiliate's transfer price for VAM, which was the highest of the three values discussed above, for purposes of calculating the weight-average COP. For these preliminary results, we have accepted Chang Chun's valuation of VAM based on its affiliate's COP because it meets the requirements under 19 CFR 351.407(b), as noted above.

B. Test of Home Market Prices

We compared the weighted-average COP, adjusted where appropriate, to the comparison market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a grade-specific basis, we compared the revised COPs to the comparison market prices, less any applicable movement charges, discounts, and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product were made at prices below the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product were made at prices below the COP, we disregarded the below-cost sales because such sales were found to be made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act, and because the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Based on the COP test, we excluded

from our analysis certain comparison-market sales of PVA products.

Price-to-Price Comparisons

We calculated normal value based on packed, FOB or delivered prices to unaffiliated purchasers in Taiwan. We made adjustments to the starting price for returns, where appropriate. We also made deductions, where appropriate, for inland freight (inclusive of inland insurance) pursuant to section 773(a)(6)(B) of the Act. In addition, we made adjustments for differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411, as well as for differences in circumstances-of-sale ("COS") in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments by deducting home market direct selling expenses (*i.e.*, credit expenses) and adding U.S. direct selling expenses (*i.e.*, credit expenses and bank charges). Finally, we deducted home market packing costs and added U.S. packing costs in accordance with 773(a)(6) of the Act.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following margin exists for the period May 1, 1998 through April 30, 1999:

| Manufacturer/exporter | Margin (percent) |
|---|------------------|
| Chang Chun Petrochemical Co., Ltd | 0.00 |

Pursuant to 19 CFR 351.224(b), the Secretary will disclose to the parties to the proceeding the calculations performed in connection with this review, within five days after the date of publication of the preliminary results of this review. Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter.

Issues raised in hearings will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed

five pages and a table of statutes, regulations and cases cited.

The Department will subsequently issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice. The request should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed.

Cash Deposit and Assessment Requirements

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties. The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisal instructions directly to the U.S. Customs Service.

If these preliminary results are adopted in the final results, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries covered by this review for which any importer-specific assessment rates calculated in the final results of this review are above *de minimis* (*i.e.*, at or above 0.5 percent), in accordance with 19 CFR 351.106(c)(2). For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total entered value of the sales examined.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this antidumping duty review for all shipments of PVA from Taiwan, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a) of the Act: (1) No cash deposits will be required for PVA from Taiwan that is produced by Chang Chun (unless the margin established for Chang Chun in the final results of this review is above *de minimis*); (2) for exporters not covered in this review, but covered

in the LTFV investigation or prior reviews, the cash deposit rate will continue to be the company-specific rate from the LTFV investigation or the prior review; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 19.21 percent, the "All Others" rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: January 30, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, AD/CVD Enforcement II.

[FR Doc. 01-4405 Filed 2-21-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-836]

Polyvinyl Alcohol from Japan: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner, Air Products and Chemicals,

Inc.,¹ the Department of Commerce is conducting an administrative review of the antidumping duty order on polyvinyl alcohol from Japan. This review covers one manufacturer/exporter, Kuraray Co., Ltd. ("Kuraray"). The period of review is May 1, 1999, through April 30, 2000.

We preliminarily determine that sales of subject merchandise have been made below normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 22, 2001.

FOR FURTHER INFORMATION CONTACT: Barbara Wojcik-Betancourt, at (202) 482-0629, or Brian Smith, at (202) 482-1766, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended ("the Act"), by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all references are made to the Department of Commerce's ("the Department's") final regulations at 19 CFR Part 351 (April 2000).

Background

On May 14, 1996, the Department published in the **Federal Register** an antidumping duty order on polyvinyl alcohol ("PVA") from Japan (61 FR 24286). On May 16, 2000, the Department published in the **Federal Register**, a notice advising of the opportunity to request an administrative review of this order for the period May 1, 1999, through April 30, 2000 (65 FR 31141). On May 31, 2000, we received a request from the petitioner, Air Products and Chemicals, Inc. ("petitioner"), to conduct an administrative review of Kuraray. On June 1, 2000, we received a letter from the petitioner asking the Department to correct the period of review ("POR") for this review, which was incorrectly stated in the petitioner's May 31, 2000, letter requesting initiation of the

administrative review. On July 7, 2000, we published a notice of initiation of this review for Kuraray (65 FR 41942).

On July 5, 2000, the Department issued an antidumping questionnaire to Kuraray. Because the Department disregarded sales that failed the cost test in the last completed review for Kuraray (see *Notice of Final Results of the First Antidumping Duty Administrative Review: Polyvinyl Alcohol from Japan*, 65 FR 50182 (August 17, 2000)) ("Final Results of Polyvinyl Alcohol from Japan"), the Department had reasonable grounds to believe or suspect that Kuraray's sales of the foreign like product may have been made at prices below the cost of production ("COP"), as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether Kuraray made home market sales during the POR at prices below its COP, and required Kuraray to respond to the COP section of the questionnaire issued in July 2000. The Department received Kuraray's responses to the questionnaire in August and September 2000.

We issued a supplemental questionnaire to Kuraray in November 2000. A response to the supplemental questionnaire was received in December 2000.

Scope of Review

The product covered by this review is PVA. PVA is a dry, white to cream-colored, water-soluble synthetic polymer. This product consists of polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid. Excluded from this review are PVAs covalently bonded with acetoacrylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, and PVAs covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. PVA in fiber form is not included in the scope of this review.

The merchandise under review is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope is dispositive.

Period of Review

The POR is May 1, 1999, through April 30, 2000.

Fair Value Comparisons

To determine whether the respondent's sales of the subject merchandise to the United States were made at below normal value, we compared, where appropriate, the export price ("EP") and constructed export price ("CEP") to the normal value, as described below. In accordance with section 777A(d)(2) of the Act, we compared, where appropriate, the export prices and CEPs of individual transactions to the monthly weighted-average price of sales of the foreign like product made in the ordinary course of trade (see section 773(a)(1)(B)(i) of the Act).

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Kuraray covered by the description in the "Scope of the Review" section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise made in the home market in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent in the following order: viscosity, hydrolysis, particle size, tackifier, defoamer, ash, color, volatiles, and visual impurities.

Export Price and Constructed Export Price

During the POR, Kuraray sold subject merchandise to the U.S. market (1) directly through its wholly-owned U.S. affiliate (Kuraray America Inc.); (2) through Kuraray America via its wholly-owned home market affiliate (Kuraray Trading Co., Ltd.) (hereafter referred to as Kuraray Trading); or (3) directly through unaffiliated Japanese trading companies.

We examined the facts surrounding the U.S. sales process for those U.S. sales which Kuraray made through its affiliates. Based on the evidence on the record, we found that Kuraray either sells the subject merchandise directly to its U.S. affiliate or through Kuraray Trading, which in turn sells the subject merchandise to the U.S. affiliate. For U.S. sales made only through its U.S.

¹On January 19, 2001, counsel for Air Products and Chemicals, Inc. ("Air Products") stated that Air Products' PVA business was sold to Celanese Ltd.

affiliate, the U.S. customer contacts Kuraray's U.S. affiliate, who then places the order with Kuraray. Kuraray arranges for delivery of the goods from Japan to the unaffiliated U.S. customer and issues its invoice to its U.S. affiliate for payment of the goods. Even though Kuraray's U.S. affiliate does not have a warehouse, it takes title to the goods once it pays Kuraray for the goods. The U.S. affiliate then issues its sales invoice to the unaffiliated U.S. customer and collects payment for the goods (see pages 11 and 12, and 16 through 18, and Exhibits A.3.a.-1, A.3.a.-2 and A.3.c, of the August 31, 2000, antidumping questionnaire response).

For U.S. sales made through Kuraray Trading to the U.S. affiliate, the U.S. affiliate still transmits the U.S. customer's order to Kuraray. However, Kuraray sells the goods to Kuraray Trading in Japan. Kuraray Trading then issues the U.S. affiliate its sales invoice. Kuraray Trading arranges for delivery of the goods from Japan to the unaffiliated U.S. customer, and the U.S. affiliate takes title to the goods once it pays Kuraray Trading for the goods. The U.S. affiliate also issues its sales invoice to the unaffiliated U.S. customer and collects payment for the goods (see pages 11 and 12, and 16 through 18, and Exhibits A.3.a.-1, A.3.a.-2 and A.3.c, of the August 31, 2000, antidumping questionnaire response). Therefore, based on the facts on this record, the Department preliminarily determines that these sales were made "in the United States" within the meaning of section 772(b) of the Act, and, thus, should be treated as CEP transactions (see *AK Steel Corp., et al. v. United States*, 226 F.3d 1361, 1374 (Fed. Cir 2000)).

For Kuraray's U.S. sales not made in the United States (*i.e.*, not made through its U.S. affiliate), we calculated EP based on the reported packed FOB price between Kuraray and the unaffiliated trading company in Japan. We made deductions, as appropriate, from the starting price for foreign inland freight from the plant to the port of exportation, foreign warehousing expenses, foreign inland insurance, and foreign brokerage and handling expenses, in accordance with section 772(c)(2)(A) of the Act.

For Kuraray's U.S. sales made in the United States through its U.S. affiliate, we based CEP on packed CIF or delivered prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight from the plant to the port of exportation, foreign inland insurance, foreign brokerage and handling expenses, international freight, palletization charges, foreign

warehousing expenses, U.S. brokerage and handling expenses, U.S. Customs duties (which include harbor maintenance and merchandise processing fees), and U.S. inland freight expenses (freight from port to the customer), in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted from CEP direct and indirect selling expenses that were associated with Kuraray's economic activities occurring in the United States. We also deducted from CEP an amount for profit, in accordance with section 772(d)(3) of the Act.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with 19 CFR 351.404(b). We determined that the quantity of foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States because Kuraray made sales in its home market which were greater than five percent of its sales in the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value on home market sales in Japan.

Level of Trade/CEP Offset

In accordance with section 773(a)(7) of the Act, to the extent practicable, we determined normal value based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The normal value LOT is that of the starting-price sales in the comparison market or, when normal value is based on constructed value, that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. For export price, the LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed export sale from the exporter to the affiliated importer.

To determine whether normal value sales are at a different LOT than export price or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. If the comparison-market sales are at a

different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the normal value level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between normal value and CEP affects price comparability, we adjust normal value under section 773(a)(7)(B) of the Act (the CEP offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

We note that the U.S. Court of International Trade ("CIT") has held that the Department's practice of determining LOT for CEP transactions after CEP deductions is an impermissible interpretation of section 772(d) of the Act. See, *e.g.*, *Borden, Inc., v. United States*, 4 F. Supp. 2d 1221, 1241-42 (CIT 1998) (*Borden*); and *Micron Technology, Inc. v. United States*, 40 F. Supp. 2d 481 (CIT 1999). The Department believes, however, that its practice is in full compliance with the statute. On June 4, 1999, the CIT entered final judgement in *Borden* on the LOT issue. See, *i.e.*, *Borden, Inc. v. United States*, Court No. 96-08-01970, Slip Op. 99-50 (CIT June 4, 1999). The government has filed an appeal of *Borden*, which is currently pending before the U.S. Court of Appeals for the Federal Circuit. Consequently, the Department has continued to follow its normal practice of adjusting CEP under section 772(d) prior to starting a LOT analysis, as articulated by the Department's regulations at section 351.412.

In this case, Kuraray reported two customer categories (*i.e.*, distributors and end users) and three channels of distribution (sales through unaffiliated distributors to end users, direct sales to end users, and sales through its affiliate to end users) for its home market sales. In its response, Kuraray claims that its sales to unaffiliated home market customers (*i.e.*, end users and distributors) are at the same LOT as its sales made through affiliated customers because Kuraray provides the same selling services to its unaffiliated and affiliated customers. Specifically, Kuraray identified the following selling services to both types of customer: (1) Salespeople visits; (2) inventory maintenance; (3) after-sale service and technical advice; (4) advertising; (5)

freight and delivery; and (6) handling of rejected merchandise. Based on our review of the record evidence, we agree with the respondent's claim that all home market sales are at the same LOT (see exhibit A.3.c. of the August 31, 2000, submission).

Kuraray had both EP and CEP sales in the U.S. market. Kuraray reported that its EP sales were made through one channel of distribution (i.e., sales through unaffiliated Japanese trading companies to U.S. end users). Kuraray also reported that its CEP sales were made through two channels of distribution (i.e., sales through its U.S. affiliate *via* its home market affiliate and sales through its U.S. affiliate only), which we have treated as one LOT because there is no apparent difference in the selling functions performed by Kuraray (see exhibit A.3.c. of the August 31, 2000, submission). In analyzing Kuraray's selling activities for its EP sales, we found that the EP sales involved basically the same selling functions associated with the home market LOT described above (i.e., inventory maintenance, freight and delivery, and handling of rejected merchandise). Therefore, based upon this information, we preliminarily determine that the LOT for all EP sales is the same as that in the home market.

For sales which we categorized as CEP sales, after making the appropriate deductions under section 772(d) of the Act, we found that the remaining expenses associated with selling activities performed by Kuraray are limited to general and administrative expenses that are reflected in the CEP price. In contrast, the normal value prices include selling expenses attributable to selling activities performed by Kuraray for the home market, such as sales support, freight and delivery functions (see exhibit A.3.c. of the August 31, 2000, submission). Accordingly, we have concluded that CEP is at a different LOT from the normal value LOT.

We then examined whether a LOT adjustment or CEP offset may be appropriate. In this case, Kuraray only sold at one LOT in the home market; therefore, there is no information available to determine a pattern of consistent price differences between the sales on which normal value is based and the comparison market sales at the LOT of the export transaction, in accordance with the Department's normal methodology as described above (see *Final Results Polyvinyl Alcohol from Japan*; and *Porcelain-on-Steel Cookware from Mexico Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000), and accompanying

Decision Memorandum at Comment 6). Further, we do not have information which would allow us to examine pricing patterns based on respondent's sales of other products, and there are no other respondents or other record information on which such an analysis could be based. Accordingly, because the data available do not provide an appropriate basis for making a LOT adjustment, but the LOT in the home market is at a more advanced stage of distribution than the LOT of the CEP, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act.

Cost of Production Analysis

Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales made by Kuraray in the home market.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by grade, based on the sum of the cost of materials and fabrication, general and administrative ("G&A") expenses, and packing costs. We relied on the submitted COP data except for the following: (1) we adjusted Kuraray's reported per-unit costs to account for the overstatement of acetic acid amounts; and (2) we adjusted Kuraray's reported labor cost for one product where Kuraray failed to report a value (i.e., a positive value) (see Preliminary Results Calculation Memorandum from Team to the File, dated January 30, 2001).

B. Test of Home Market Prices

We compared the weighted-average COP to the comparison-market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a grade-specific basis, we compared the COP to the comparison-market prices, less any applicable movement charges, discounts, and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given product were made at prices below the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20

percent or more of the respondent's sales of a given product were made at prices below the COP, we disregarded the below-cost sales because such sales were found to be made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act, and because the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Based on this test, we excluded from our analysis certain comparison-market sales of PVA products that were made at below-COP prices (see Preliminary Results Calculation Memorandum from Team to the File, dated January 30, 2001).

Price-to-Price Comparisons

We calculated normal value based on both packed, FOB or delivered prices Kuraray charged to its unaffiliated purchasers in Japan and packed, FOB or delivered prices Kuraray Trading charged to its unaffiliated purchasers in Japan. We made adjustments to the starting price for discounts, where appropriate. We also made deductions, where appropriate, for inland freight (i.e., plant to warehouse and warehouse to customer), inland insurance and warehousing expenses, pursuant to section 773(a)(6)(B) of the Act.

For all comparisons, we made a circumstance-of-sale adjustment, where appropriate, for differences in credit expenses, pursuant to section 773(a)(6)(C)(iii) of the Act and 19 C.F.R. 351.410(c).

For comparisons to CEP sales, we also deducted from normal value the lesser of comparison-market indirect selling expenses and indirect selling expenses deducted from CEP (the CEP offset), pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

For comparisons to both export price and CEP sales, we made adjustments to normal value for differences in packing expenses, in accordance with section 773(a)(6) of the Act. We also made adjustments to normal value, where appropriate, for differences in costs attributable to differences in the physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following margin exists for the period May 1, 1999, through April 30, 2000:

| Manufacturer/exporter | Margin (percent) |
|------------------------|------------------|
| Kuraray Co., Ltd. | 4.87 |

Pursuant to 19 CFR 351.224(b), the Department will conduct disclosure within five days after the date of publication of this notice. Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter.

Issues raised in hearings will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice. The request should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed.

Cash Deposit and Assessment Requirements

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties.

The Department shall determine and the Customs Service shall assess antidumping duties on all appropriate entries. The Department will issue appropriate appraisal instructions directly to the Customs Service upon completion of this review. For Kuraray, for duty assessment purposes, we intend to calculate importer-specific assessment rates by aggregating the dumping margins calculated for all U.S.

sales to each importer and dividing this amount by the total entered value of the same sales of subject merchandise for each importer. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis* (i.e., at or above 0.50 percent).

Furthermore, the following deposit requirements will be effective upon publication of the final results of this antidumping duty administrative review for all shipments of PVA from Japan, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Act: (1) The cash deposit rate for Kuraray will be the rate established in the final results; (2) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value ("LTFV") investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) the cash deposit rate for all other manufacturers or exporters will continue to be 77.49 percent, the "All Others" rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: January 30, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, AD/CVD Enforcement II.

[FR Doc. 01-4406 Filed 2-21-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-508-810]

Preliminary Affirmative Countervailing Duty Determination: Pure Magnesium From Israel

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 22, 2001.

FURTHER INFORMATION CONTACT: Marian Wells or Melanie Brown, Office of CVD/AD Enforcement I, Import Administration, U.S. Department of Commerce, Room 3096, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-6309 and (202) 482-4987, respectively.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of pure magnesium from Israel. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by the Magnesium Corporation of America ("Magcorp"), the United Steel Workers of America, Local 8319, and the United Steelworkers of America, Local 482 (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (see *Notice of Initiation of Countervailing Duty Investigation: Pure Magnesium from Israel*, 65 FR 68126 (November 14, 2000) (*Initiation Notice*)), the following events have occurred. On November 8, 2000, we issued countervailing duty questionnaires to the Government of Israel (GOI) and the sole producer/exporter of the subject merchandise, Dead Sea Magnesium Ltd. (DSM). On December 20, 2000, we postponed the preliminary determination of this investigation until no later than February 14, 2001. See, *Pure Magnesium from Israel: Postponement of Time Limit for Preliminary Determination of Countervailing Duty Investigation*, 65 FR 81489 (December 26, 2000). We received responses to our initial questionnaires from the GOI and DSM on January 3, 2001. Between January 11 and 30, 2001, we issued supplemental questionnaires to the GOI and DSM, and we received responses to those questionnaires in January and February.

On January 11, 2001, the petitioners requested that the Department include an additional program, the Israeli Foreign Trade Risk Insurance Corporation (IFTRIC), in our investigation. On January 22, 2001, the GOI and DSM submitted comments opposing the investigation of IFTRIC. On February 12, 2001, the Department declined to investigate the IFTRIC program. See, February 12, 2001, Memorandum to Susan H. Kuhbach, Acting Deputy Assistant Secretary, from the Team, Allegation of Possible Subsidy: Magnesium from Israel.

Scope of the Investigation

The scope of this investigation includes imports of pure magnesium products, regardless of chemistry, form, or size, including, without limitation, ingots, raspings, granules, turnings, chips, powder, and briquettes.

Pure magnesium includes: (1) Products that contain at least 99.95 percent primary magnesium, by weight (generally referred to as "ultra-pure" magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent pure magnesium, by weight (generally referred to as "pure" magnesium); and (3) chemical combinations of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an "ASTM Specification for Magnesium Alloy"¹ (generally referred to as "off-specification pure" magnesium); and (4) physical mixtures of pure magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, except that mixtures containing 90 percent or less pure magnesium, by weight, when mixed with lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon slag coagulants, and/or fluorspar, are excluded.

The merchandise subject to this investigation is classifiable under 8104.11.00, 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Comment on Scope

In the *Initiation Notice*, 65 FR at 68126, we invited comments on the scope of this proceeding. On December

1, 2000, we received comments from the petitioners clarifying that finished mixtures containing pure magnesium and/or off-specification pure magnesium that are prepared solely for use as a desulfurizer in steel-making are excluded from the scope of the investigation, unless such mixtures contain only minimal amounts of non-magnesium materials in order to circumvent an antidumping or countervailing duty order. On January 30, 2001, the petitioners submitted proposed language to further clarify their intent with respect to the scope of this investigation. The resulting revised scope language is reflected in the "Scope of Investigation" section above.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Injury Test

Because Israel is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Israel materially injure, or threaten material injury to, a U.S. industry. On December 13, 2000, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Israel of the subject merchandise. (See *Pure Magnesium from China, Israel, and Russia: Determinations*, 65 FR 77910 (December 13, 2000).)

Period of Investigation (POI)

The period of investigation (POI) for which we are measuring subsidies is calendar year 1999.

Change in Ownership

DSM, the sole producer/exporter of subject merchandise from Israel, is a joint venture between the Israeli company, Dead Sea Works (DSW) and Volkswagen (VW). DSW, in turn, is owned by the Israeli company Israel Chemicals Ltd. (ICL). The subsidies were received by DSW and later, by DSM, after the formation of the joint venture.

In 1991, the GOI announced its plan to privatize ICL, under the supervision of the Government Corporation Authority. Prior to that, in 1987, the Ministry of Finance, which controlled the Government Corporation Authority, commissioned an investment banking firm, First Boston, to assist in the initial steps of the privatization process of government-owned corporations. The GOI's objective in privatizing these companies was to promote and strengthen free-market mechanisms in Israel, enhance competitiveness, and raise funds to reduce internal and external debt. See *GOI Response* at II-5. First Boston identified a number of government-owned corporations that were suitable for private sale or public offering, suggested schedules for each sale, and addressed technical issues relating to the Government Companies Law, accounting and tax issues, and privatization methods.

In 1988, the Ministry of Finance's Government Economic Committee adopted First Boston's recommendations as the framework for a five-year plan for privatization. The Government Corporation Authority updated this plan in 1991 to include the sale of shares in government-owned companies on the Tel Aviv Stock Exchange. In February 1992, the Committee on Privatization approved the sale of up to 72 percent of ICL through public and private sales.

The GOI privatized ICL through a series of private sales and public offerings of existing shares of ICL conducted in the years 1992 through 1995, and 1997 through 1999. The privatization of ICL, the parent company of DSW/DSM, directly and necessarily resulted in the privatization of the government's interest in DSW/DSM. The first partial privatization was conducted under a prospectus for sale of ICL's shares to the public and its employees that was published on February 19, 1992. According to the prospectus, the share capital of ICL consisted of 1,199,999,999 ordinary shares registered on the Tel Aviv Stock Exchange, and one special state share. Under this prospectus, the state sold 20 percent of ICL's shares, including 226,619,916 shares sold to the public, and 13,068,999 shares sold to ICL employees. The GOI continued to hold the special state share after this and subsequent privatizations. See *GOI Response* at II-9 through II-12 for information relating to shares sold at each privatization.

In this preliminary determination, we have applied our new privatization approach, first announced in a remand determination on December 4, 2000,

¹ The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys*.

following the decision of the U.S. Court of Appeals for the Federal Circuit (CAFC) in *Delverde Srl v. United States*, 202 F.3d 1360, 1365 (Fed. Cir. 2000), *reh'g en banc denied* (June 20, 2000) (*Delverde III*). We have also applied this new approach recently in *Grain-Oriented Electrical Steel from Italy: Final Results of Countervailing Duty Administrative Review*, 66 FR 2885 (January 12, 2001).

Under this approach, the first requirement is to determine whether the person to which the subsidies were given is, in fact, distinct from the person that produced the subject merchandise exported to the United States. If the two persons are distinct, the original subsidies may not be attributed to the new producer/exporter.

On the other hand, if the original subsidy recipient and the current producer/exporter are considered to be the same person, that person benefits from the original subsidies, and its exports are subject to countervailing duties to offset those subsidies. In other words, we will determine that a "financial contribution" and a "benefit" have been received by the "person" that is the firm under investigation. Assuming that the original subsidy had not been fully amortized under the Department's normal allocation methodology as of the POI, the Department would then continue to countervail the remaining benefits of that subsidy.

In making the "person" determination, where appropriate and applicable, we analyze factors such as (1) continuity of general business operations, including whether the successor holds itself out as the continuation of the previous enterprise, as may be indicated, for example, by use of the same name, (2) continuity of production facilities, (3) continuity of assets and liabilities, and (4) retention of personnel. No single factor will necessarily provide a dispositive indication of any change in the entity under analysis. Instead, the Department will generally consider the post-sale entity to be the same person as the pre-sale entity if, based on the totality of the factors considered, we determine that the entity in question can be considered a continuous business entity because it was operated in substantially the same manner before and after the change in ownership.

Using the approach described above, we analyzed the information provided by the GOI and DSM to determine whether the subsidies received by DSW and DSM prior to the privatization of ICL continued to benefit DSM during the POI. When we apply this approach

to the facts and circumstances of the instant countervailing duty investigation of pure magnesium from Israel and the relevant privatization of ICL and its subsidiary, DSW/DSM, we find that the pre-sale and post-sale entities are not distinct persons.² Therefore, we preliminarily determine that the subsidies provided to DSW/DSM, prior to the privatization of ICL, continue to benefit DSW/DSM post-privatization.

Due to the proprietary nature of the information submitted on the record by DSM, a more specific discussion of the factors considered in the change of ownership transactions of ICL is included in our Memorandum to the File dated February 14, 2001, Change in Ownership in the Countervailing Duty Investigation of Pure Magnesium from Israel (*Change in Ownership Memorandum*).

Creditworthiness

In the *Initiation Notice*, 65 FR at 68128, the Department stated that it would investigate DSM's creditworthiness, based on the petitioners' allegation that DSM has been uncreditworthy since its inception.³ On January 11, 2001, the Department issued questions concerning DSM's creditworthiness and on February 1, 2001, DSM responded to those questions.

Because the only grants that were approved for DSM in 1996 or subsequent years, were either expensed in the year of receipt or did not give rise to a benefit during the POI, we have not addressed DSM's creditworthiness in this preliminary determination.

Subsidies Valuation Information

Allocation Period

19 CFR 351.524(d)(2) states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL

for the industry under investigation is significant. The Department will use the criteria found in 19 CFR

351.524(d)(2)(ii) and (iii) to decide whether the presumption has been rebutted.

In this investigation, DSM has alleged that the IRS AUL is inaccurate for DSM and has supplied gross book values of depreciable productive assets, as well as the depreciation expenses recorded in the company's normal accounting records, for purposes of calculating a company-specific AUL. We have reviewed DSM's calculation of AUL and made several minor adjustments which are fully documented in the Department's Calculation Memorandum, dated February 14, 2001, on file in Room B-099 at the U.S. Department of Commerce, Washington, DC 20230. Since DSM's AUL differs significantly from the IRS AUL, we have used DSM's AUL of 21 years to allocate all non-recurring subsidies, in accordance with 19 CFR 351.524(d)(2).

Discount Rates

In selecting a discount rate to allocate non-recurring subsidies over time, the Department prefers to use:

(1) The cost of long-term fixed-rate loans of the firm in question, excluding any loans that the Secretary has determined to be countervailable subsidies;

(2) The average cost of long-term fixed-rate loans in the country in question; or,

(3) A rate that the Secretary considers to be most appropriate. (See 19 CFR 351.524(d)(3)(i)).

DSW and DSM reported that they had long-term, variable-rate borrowings but no fixed-rate borrowings. In addition, based on the GOI's response there is no indication that long-term, fixed rate loans were available to private companies in Israel during these years. This is consistent with the Department's finding in the *Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Butt-Weld Pipe Fittings From Israel*, 60 FR 10569, 10570 (February 27, 1995) (*Butt-Weld Fittings*), that during the period examined in that case only variable-rate lending was available on a long-term basis to private companies in Israel. Thus, we lack information on the first two preferred sources for a discount rate.

Lacking fixed interest rates, we looked to DSW and DSM's reported interest rates. DSM stated that the interest rates on its long-term borrowings were calculated as a fixed percentage above the London Interbank Offer Rate (LIBOR). For purposes of this preliminary determination, we have

² The GOI stated that it only provided subsidies to DSW/DSM because its parent company, ICL, is a holding company and was, therefore, not eligible to receive any of the reported subsidies.

³ DSM was incorporated in 1996.

calculated an annual average rate, based on DSM's reported borrowing rate of LIBOR plus the fixed percentage, for the years in which grants were approved to use as DSM's discount rate. This calculation is consistent with the discount interest rate used in *Industrial Phosphoric Acid from Israel: Final Results and Partial Recision of Countervailing Duty Administrative Review*, 64 FR 49460, 49461 (September 13, 1999) (IPA). We will request additional information from DSM on its long-term loans which we will examine at verification.

I. Programs Preliminarily Determined To Be Countervailable

A. Encouragement of Capital Investments Law (ECIL)

The ECIL is a regional development program aimed at providing assistance to enterprises located in disadvantaged regions of the country. This program is administered under the Law for the Encouragement of Capital Investments 5719-1959. Amendment No. 4 of the Law authorized grants beginning in 1967. The program contributes to the development of industrial enterprises to improve the economic situation in disadvantaged regions by encouraging population distribution, creating new sources of employment, aiding the absorption of immigrants, and developing the economy's production capacity.

There are three mutually exclusive programs under the ECIL: grants, corporate income tax exemptions, and accelerated depreciation of assets. Investment grants are provided to companies as a specified percentage of the company's investment in eligible fixed assets. The amounts vary based on the region in which the assets are located. Companies can also receive reduced tax rates or a full tax exemption for the first two years in certain circumstances. Accelerated depreciation on eligible buildings and equipment is available for qualifying enterprises for the first five years of use at rates of 200 percent of the ordinary rate for equipment and 400 percent of the ordinary rate for buildings, with depreciation on buildings not exceeding 20 percent per annum.

To be eligible for benefits under ECIL applicants must be located within one of the designated development zones and meet one of the following requirements: utilize natural resources and existing plants to their full potential, absorb newly migrated persons, help to spread the population across the country, or create new jobs.

ECIL Grant Program

For purposes of the ECIL program, Israel is divided into three zones—Development Zones A and B, and the Central Zone. DSM is located in Zone A and received ECIL grants for the construction of its magnesium plant.

We preliminarily determine that the investment grants provide countervailable subsidies within the meaning of section 771(5) of the Act. The grants are a direct transfer of funds from the GOI providing a benefit in the amount of the grant. The grants are specific within the meaning of section 771(5A)(D)(iv) because they are limited to firms located in a designated geographic regions.

In accordance with 19 CFR 351.524(c)(1), we have treated these grants as non-recurring subsidies and have allocated the benefit over time. To calculate the countervailable subsidy, we divided the benefit attributable to the POI by the value of DSM's total sales during the POI. On this basis, we determine the countervailable subsidy for this program to be 12.99 percent *ad valorem*.

B. Infrastructure Grants

Under the Infrastructure Grant Program, the GOI has established new industrial areas by partially reimbursing companies for their costs of developing the infrastructure in certain geographical zones. DSM received assistance under this program.

We preliminarily determine that the investment grants provide countervailable subsidies within the meaning of section 771(5) of the Act. The grants are a direct transfer of funds from the GOI providing a benefit in the amount of the grant. The grants are specific within the meaning of section 771(5A)(D)(iv) because they are limited to firms located in a designated geographic regions.

In accordance with 19 CFR 351.524(c)(1), we have treated these grants as non-recurring subsidies and have allocated the benefit over time. To calculate the countervailable subsidy, we divided the benefit attributable to the POI by the value of DSM's total sales during the POI. On this basis, we determine the countervailable subsidy for this program to be .40 percent *ad valorem*.

C. Encouragement of Industrial Research and Development Law Grants (EIRD)

The EIRD was established in 1984 and is administered by the Office of Chief Scientist (OCS) of the Ministry of Industry and Trade. The benefits under

this program include grants, loans, and tax exemptions. The OCS provides grants for 30 to 66 percent of the approved research and development expenditures (R&D), depending on the type of project to be undertaken and the location where the proposed R&D will be done. The typical level of support is 50 percent of the investment. Support for improvements in existing products is 30 percent of the investment. Support for R&D in Development Zone A is 60 percent of the investment. Support for R&D for which sole financing comes from the company performing the R&D is 66 percent of the investment.

Persons applying for a grant are required to submit information to the OCS regarding the nature, aims and budget of the proposed project. The OCS considers the following criteria in determining whether to grant EIRD funds: (1) Whether the applicant company shows innovation in the development of new technologies; (2) the management, production and marketing capabilities of the firm, as well as any marketing strategy for the new product; (3) whether the product will be able to successfully compete in international markets; (4) whether the proposed R&D project will result in the introduction of new technology or scientific manpower. The OCS provided grants to DSM for industrial research and development projects which contribute to the Israeli economy and to its scientific and technological development. There is no indication that DSM's receipt of benefits was related to export performance.

The grants provided under the program are subject to repayment, through the payment of royalties, if the supported R&D yields a commercially successful product. With respect to the grants provided to DSM for production of magnesium, one grant was partially repaid.

We preliminarily determine that the grants received under the EIRD program are countervailable subsidies. The grants are a direct transfer of funds from the GOI. If not repaid, the grants confer a benefit in the amount equal to the difference between the non-specific base rate of 30 percent and the Development Zone A rate of 60 percent. In instances where the grant is repaid, the benefit is the company's interest-free use of money. The EIRD program is specific, at least for R&D undertaken in Development Zone A, because the level of assistance is greater for companies located in that zone.

To calculate the benefit to DSM from the EIRD grants, we first tested whether the amounts approved exceeded 0.5 percent of sales in the year of approval.

If not, we expensed the grant in the year of receipt. DSM received no disbursements in the POI. If the grant exceeded 0.5 percent of sales in the year of approval, we treated it as a zero-rate loan. For "loans" outstanding during the POI, the subsidy was less than 0.005 percent under any calculation methodology. Therefore, we are not computing a benefit for this program. See the February 14, 2001, *Preliminary Affirmative Countervailing Duty Determination: Pure Magnesium from Israel* Calculation Memorandum for DSM.

II. Programs Preliminarily Determined To Be Not Used

The following programs were not used:

- A. ECIL Tax Rate benefits
- B. ECIL Depreciation Preferences
- C. Magnesium Research Institute (MRI) and Consortium Research Programs

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for DSM, the sole manufacturer of the subject merchandise. We preliminarily determine that the total estimated net countervailable subsidy rate is 13.39 percent *ad valorem*. Because we only investigated one producer/exporter, DSM's rate will also serve as the "all others" rate. Therefore, the "all others" rate is 13.39 percent *ad valorem*.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of pure magnesium from Israel which are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will

not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration. If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination or the next business day thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination.

As part of the case brief, parties are encouraged to provide a summary of the arguments, not to exceed five pages, and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the

duties of the Assistant Secretary for Import Administration.

Dated: February 14, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, AD/CVD Enforcement II.

[FR Doc. 01-4407 Filed 2-21-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Computer System Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board (CSSPAB) will meet Tuesday, March 6, 2001, from 9 a.m. until 5 p.m. and Thursday, March 8, 2001, from 9 a.m. until 4 p.m. The Advisory Board was established by the Computer Security Act of 1987 (P.L. 100-235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to federal computer systems. All sessions will be open to the public. Details regarding the Board's activities are available at <http://csrc.nist.gov/csspab/>.

DATES: The meeting will be held on March 6, 2001, from 9 a.m. until 5 p.m. and on March 8, 2001, from 9 a.m. until 4 p.m.

ADDRESSES: The meeting will take place at the University Place Conference Center and Hotel, Indiana University-Purdue University at Indianapolis, 850 West Michigan Street, Indianapolis, IN.

Agenda

- Welcome and Overview
- Updates on Recent Legislative Issues
- Update on OMB Activities
- Overview of Reorganization of NIST Computer Security Division
- Work Plan Review of Governance Issues
- Work Plan Review of Best Practices Issues
- Work Plan Review of GPEA Process
- Work Plan Review of Security Metrics Issues
- Work Plan Review of Privacy Issues
- Work Plan Review of Baseline Standards Issues
- Review of Plans for Privacy Event in June
- Discussion of Follow-On Actions from December 2001 Meeting

- Public Participation
- Agenda Development for June 2001 Meeting
- Wrap-Up

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters.

Public Participation

The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the CSSPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899-8930. It would be appreciated if 35 copies of written material were submitted for distribution to the Board and attendees no later than March 1, 2001. Approximately 15 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Roback, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899-8930, telephone: (301) 975-3696.

Dated: February 12, 2001.

Karen H. Brown,

Acting Director, NIST.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 001214350-0350-01, I.D. 112700B]

RIN 0648-Z098

Financial Assistance for Research and Development Projects in the Gulf of Mexico and Off the U.S. South Atlantic Coastal States; Marine Fisheries Initiative (MARFIN)

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

ACTION: Notice.

SUMMARY: Subject to the availability of funds, NMFS, through its MARFIN program, financially assists persons in carrying out research and development projects that optimize the use of fisheries in the Gulf of Mexico and off the South Atlantic States of North Carolina, South Carolina, Georgia, and Florida involving the U.S. fishing industry (recreational and commercial), including fishery biology, resource assessment, socio-economic assessment, management and conservation, selected harvesting methods, and fish handling and processing. This notice describes how to apply for such assistance and how NMFS selects applications for funding.

DATES: Applications for funding under this program will be accepted between February 22, 2001 and 5 p.m. eastern daylight time on April 23, 2001. Applications received after that time will not be considered for funding. No facsimile applications will be accepted.

ADDRESSES: Send applications to: Ellie Francisco Roche, Chief, State/Federal Liaison Office, Southeast Regional Office, NMFS, 9721 Executive Center Drive, N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Ellie Roche; telephone (727) 570-5324.

SUPPLEMENTARY INFORMATION:

I. Authority

The Secretary of Commerce (Secretary) is authorized under 15 U.S.C. 713c-3(d) to carry out a national program of research and development addressed to such aspects of U.S. fisheries (including, but not limited to, harvesting, processing, marketing and to associated infrastructures), if not adequately covered by projects assisted under 15 U.S.C. 713c-3(c), as the Secretary deems appropriate.

II. Catalog of Federal Domestic Assistance

This program is described in the "Catalog of Federal Domestic Assistance" (CFDA) under program number 11.433, Marine Fisheries Initiative (MARFIN).

III. Program Description

MARFIN is a competitive Federal assistance program that funds projects that seek to optimize research and development benefits from U.S. marine fishery resources through cooperative efforts involving the best research and management talents to accomplish priority activities. Projects funded under MARFIN provide answers for fishery needs covered by the NMFS Strategic Plan, available from the Southeast Regional Office (see **ADDRESSES**),

particularly those goals relating to: rebuilding overfished marine fisheries, maintaining currently productive fisheries, and integrating conservation of protected species and fisheries management. Areas of emphasis for MARFIN are formulated from recommendations received from non-Federal scientific and technical experts, and from NMFS research and operations officials.

IV. Funding Availability

Approximately \$2.20 million may be available in fiscal year (FY) 2001 for funding projects. This amount includes possible in-house projects and \$750,000 for 1-year projects for red snapper research. (See XI. Project Funding Priorities.) Publication of this notice does not obligate NMFS to award any specific cooperative agreement nor to obligate all or any parts of the available funds.

Project proposals accepted for funding for a project period over 1 year that include multiple project components and severable tasks to be funded during each budget period do not compete for funding in subsequent budget periods within the approved project period. However, funding for subsequent project components is contingent upon the availability of funds and satisfactory performance and will be at the sole discretion of the agency.

V. No Matching Requirements

Cost-sharing is not required for the MARFIN program. Applications must provide the total budget necessary to accomplish the project, including contributions and/or donations. The appropriateness of all cost-sharing will be determined on the basis of guidance provided in applicable Federal cost principles. If an applicant chooses to cost-share, and if that application is selected for funding, the applicant will be bound by the percentage of the cost share reflected in the cooperative agreement award.

The non-Federal share may include the value of in-kind contributions by the applicant or third parties or funds received from private sources or from state or local governments. Federal funds may not be used to meet the non-Federal share of matching funds, except as provided by Federal statute. Third party in-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to the project and use of real or personal property owned by others (for which consideration is not required) in carrying out the projects. 15 U.S.C. 713c-3(c)(4)(B) provides that the amount of the grant is no less than 50

percent of the estimated cost of the project.

Costs incurred in either the development of a project or the financial assistance application, or time expended in any subsequent discussions or negotiations prior to the award, are neither reimbursable nor recognizable as part of the recipient's cost share.

VI. Type of Funding Instrument

The funding instrument will be a cooperative agreement since NMFS will be substantially involved in developing each project's research priorities and assisting in the research.

VII. Eligibility Criteria

A. Eligible applicants include institutions of higher education, hospitals and other nonprofit organizations, commercial organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible. Foreign governments, organizations under the jurisdiction of foreign governments, and international organizations are excluded for purposes of this solicitation since the objective of the MARFIN program is to optimize research and development benefits from U.S. marine fishery resources (see III. Program Description).

B. The Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities in its educational and research programs. DOC/NOAA's goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

VIII. Award Period

The award period for the project may be up to 3 years, consisting of one, two, or three budget periods. The award period depends upon the duration of funding requested in the application, the decision of the NMFS selecting official on the amount of funding, the results of post-selection negotiations between the applicant and NOAA officials, and pre-award review of the application by NOAA and Department of Commerce (DOC) officials. Normally,

each project budget period will be 12 months in duration.

IX. Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 25 percent of the Federal share of the total proposed direct costs dollar amount in the application, whichever is less. A copy of the current, approved, negotiated Indirect Cost Agreement with the Federal Government must be included with the application.

X. Application Requirements, Forms and Kit

Before submitting an application under this program, applicants should contact the NMFS Southeast Regional Office for a copy of this solicitation's MARFIN Application Package (see ADDRESSES).

Applications for this project's funding must be complete and in accordance with instructions in the MARFIN Application Package. Project applications must identify the principal participants, and include copies of any agreements describing the specific tasks to be performed by participants. Project applications should: give a clear presentation of the proposed work, the methods for carrying out the project, its relevance to managing and enhancing the use of Gulf of Mexico and/or South Atlantic fishery resources, and cost estimates as they relate to specific aspects of the project. Budgets must include a detailed breakdown, by category of expenditures, with appropriate justification for both the Federal and non-Federal shares.

Applications should exhibit familiarity with related work that is completed or ongoing. Where appropriate, proposals should be multi-disciplinary. In addition to referencing specific area(s) of special interest, proposals should state whether the research applies to the Gulf of Mexico only, the South Atlantic only, or to both areas. Successful applicants may be required to collect and manage data in accordance with standardized procedures and formats approved by NMFS and to participate with NMFS in specific cooperative activities that are determined by consultations between NMFS and successful applicants before project grants are awarded. All applications must include funding for the principal investigator to participate in an annual MARFIN Conference in

Tampa, FL at the completion of the project.

Coordinated efforts involving multiple institutions or persons are encouraged. Women and minority owned and operated non-profit organizations are encouraged to apply. Applicants should not assume prior knowledge on the part of NMFS as to the merits of the project described in the application. Applications must be one-sided and unbound. All incomplete applications are returned to the applicant. Ten copies (one original and nine copies) of each application are required and should be submitted to the NMFS Southeast Regional Office, State/Federal Liaison Office (SEE). The Office of Management and Budget (OMB) has approved 10 copies, under OMB Control No. 0648-0175.

XII. Project Funding Priorities

A. Priority is given to funding projects that have the greatest probability of recovering, maintaining, improving, or developing fisheries; improving the understanding of factors affecting recruitment success; and/or generating increased values and recreational opportunities from fisheries. Projects are evaluated as to the likelihood of achieving these objectives, with consideration of the magnitude of the eventual economic or social benefits that may be realized. Priority is given to funding projects in the subject areas listed below, but proposals in other areas are considered on a funds-available basis. There is no preference between short-term projects and long-term projects.

1. Bycatch

The bycatch of biological organisms (including interactions with sea turtles and marine mammals) by various fishing gears can have wide-reaching impacts from a fisheries management and an ecological standpoint, with the following major concerns:

a. *Shrimp trawl fisheries.* Studies are needed to contribute to the regional shrimp trawl bycatch program (including the southern U.S. Atlantic rock shrimp fishery) being conducted by NMFS in cooperation with state fisheries management agencies, commercial and recreational fishing organizations and interests, environmental organizations, universities, Councils, and Commissions. Specific guidance and research requirements are contained in the Cooperative Bycatch Plan for the Southeast, available from NMFS (see ADDRESSES). In particular, the studies should address:

(1) Data collection and analyses to expand and update current bycatch estimates, temporally and spatially emphasizing areas of greatest impact by shrimping. Sampling effort should include estimates of numbers, weight, and random samples of size (age) structure of associated bycatch complex, with emphasis on those overfished species under the jurisdiction of the Councils. Data collection should also include mortality, age, and length information for red drum in both inshore and offshore shrimp fisheries.

(2) Assessment of the status and condition of fish stocks significantly impacted by shrimp trawler bycatch, with emphasis given to overfished species under the jurisdiction of the Councils. Other sources of fishing and nonfishing mortality should be considered and quantified as well.

(3) Identification, development, and evaluation of gear, non-gear, and tactical fishing options to reduce bycatch.

(4) Improved methods for communicating with and improving technology and information transfer to the shrimp industry.

(5) Development and evaluation of statistical methods to estimate the bycatch of priority management species in the Gulf and South Atlantic shrimp trawl fisheries.

b. *Pelagic longline fisheries.* Several pelagic longline fisheries exist in the Gulf and South Atlantic, targeting highly migratory species, such as tunas, sharks, and swordfish. Priority areas include:

(1) Development and evaluation of gear and fishing tactics to minimize bycatch of undersized and unwanted species, including sea turtles, marine mammals, billfish, and overfished finfish species/stocks.

(2) Assessment of the biological impact of longline bycatch on related fisheries.

c. *Reef fish fisheries.* The reef fish complex is exploited by a variety of fishing gear and tactics. The following research on bycatch of reef fish species is needed:

(1) Development and evaluation of gear and fishing tactics to minimize the bycatch of undersized and unwanted species, including sea turtles and marine mammals.

(2) Characterization and assessment of the impact of bycatch of undersized target species, including release mortality, during recreational fishing and during commercial longline, bandit gear and trap fishing.

(3) Determination of the release mortality by depth of red snapper caught on commercial bandit rigs that are electrically or hydraulically powered.

d. *Finfish trawl fisheries.* Studies are needed on quantification and qualification of the bycatch in finfish trawl fisheries, such as the flounder and fly-net fisheries in the South Atlantic.

e. *Gillnet fisheries.* Studies are needed on quantification and qualification of the bycatch in coastal and shelf gillnet fisheries for sciaenids, scombrids, bluefish and other dogfish sharks of the South Atlantic and Gulf of Mexico (particularly interaction with sea turtles and marine mammals).

f. *Economic considerations of bycatch reduction.*

(1) Develop and test models, using actual or hypothesized data, that explicitly consider the economic impacts to the directed fishery and gains to the bycatch fishery. The models should include the effects of the management systems for the directed and bycatch fisheries and should attempt to describe criteria for the correct level of bycatch reduction (e.g., marginal cost and value of reduction are equal).

(2) Develop economic incentives and other innovative alternatives to gear and season/area restrictions as ways to reduce bycatch. The proposal should attempt to contrast the relative costs, potential gains, and levels of bycatch reduction associated with traditional methods and any innovative alternatives addressed by the proposals.

(3) Describe the costs and returns performance of South Atlantic and Gulf of Mexico shrimp fisheries as necessary background for the economics of bycatch reduction. (See Section XIII.A., regarding collection of information.)

2. Reef Fish

Some species within the reef fish complex are exhibiting signs of being overfished, either because of directed efforts or because of being the bycatch of other fisheries. The ecology of reef fish makes them vulnerable to overfishing, because they tend to concentrate over specific types of habitat with patchy distribution. This behavior pattern can make traditional fishery statistics misleading. Priority research areas include:

a. *Collection of Basic Biological Data for Species in Commercially and Recreationally Important Fisheries*

(1) *Age and growth of reef fish.* (a) Description of age and growth patterns, especially for red, vermilion, gray, and cubera snappers; gray triggerfish; gag; black grouper; hogfish; red porgy; and other less dominant forms in the management units for which data are lacking.

(b) Contributions to the development of annual age-length keys and

description of age structures for exploited populations for all species in the complex addressed in the Reef Fish and Snapper/Grouper Management Plans for the Gulf and South Atlantic, respectively, prioritized by importance in the total catch.

(c) Design of sampling systems to provide a production-style aging program for the reef fish fishery. Effective dockside sampling programs are needed over a wide geographic range, especially for groupers, to collect information on reproductive state, size, age, and sex.

(2) *Reproduction studies of reef fish.*

(a) Maturity schedules, fecundity, and sex ratios of commercially and recreationally important reef fish, especially gray triggerfish, gag, and red porgy in the Gulf and South Atlantic.

(b) Studies of all species to characterize the actual reproductive contribution of females by age.

(c) Identification and characterization of spawning aggregations by species, area, size group and season.

(d) Effects of fishing on changes of sex ratios for gag, red grouper, and scamp, and disruption of aggregations.

(e) Investigations of the reproductive biology of gag, red grouper and other grouper species.

(3) *Recruitment of reef fish.* (a) Source of recruitment in Gulf and South Atlantic waters, especially for snappers, groupers, and amberjacks.

(b) Annual estimation of the absolute or relative recruitment of juvenile gag, gray snapper, and lane snapper to estuarine habitats off the west coast of Florida and to similar estuarine nursery habitats along the South Atlantic Bight; development of an index of juvenile gag recruitment for the South Atlantic based on historical databases and/or field studies.

(c) The contribution of live-bottom habitat and habitat areas of particular concern (Oculina banks) off Fort Pierce, FL and off west central Florida to reef fish recruitment.

(4) *Stock structure of reef fish.* (a) Movement and migration patterns of commercially and recreationally valuable reef fish species, especially gag in the Gulf and South Atlantic and greater amberjack between the South Atlantic and Gulf.

(b) Biochemical/immunological and morphological/meristic techniques to allow field separation of lesser amberjack, almaco jack, and banded rudderfish from greater amberjack to facilitate accurate reporting of catch.

(c) Stock structure of wreckfish in the South Atlantic and of greater amberjack in the Gulf and South Atlantic.

b. *Population assessment of reef fish.*

(1) Effect of reproductive mode and sex change (protogynous hermaphroditism) on population size and characteristics, with reference to sizes of fish exploited in the fisheries and the significance to proper management.

(2) Source and quantification of natural and human-induced mortalities, including release mortality estimates for charter boats, headboats, and private recreational vessels, especially for red snapper and the grouper complex.

(3) Determination of the habitat and limiting factors for important reef fish resources in the Gulf and South Atlantic.

(4) Description of habitat and fish populations in the deep reef community and the prey distributions supporting the community.

(5) Development of statistically valid indices of abundance for important reef fish species in the South Atlantic and Gulf, especially red grouper, jewfish, and Nassau grouper.

(6) Assessment of tag performance on reef fish species, primarily snappers and groupers. Characteristics examined should include shedding rate, effects on growth and survival, and ultimately, the effects of these characteristics on estimations of vital population parameters.

(7) Stock assessments to establish the status of major recreational and commercial species. Innovative methods are needed for stock assessments of aggregate species, including the effect of fishing on genetic structure and the incorporation of sex change for protogynous hermaphrodites into stock assessment models.

(8) Assessment of Florida Bay recovery actions on reef fish recruitment and survival.

c. *Management of reef fish.* (1)

Research in direct support of management, including catch-and-release mortalities, by gear and depth.

(2) Evaluation of the use of marine reserves as an alternative or supplement to current fishery management practices and measures for reef fish. Studies should focus on the Experimental Oculina Reef Reserve, the Florida Keys National Marine Sanctuary, as well as on the identification of prime sites for the establishment of reserves in the U.S. south Atlantic and Gulf of Mexico.

(3) Characterization and evaluation of biological impacts (e.g., changes in age or size structure of reef fish populations in response to management strategies).

(4) Evaluation of vessel log data for monitoring the fishery and for providing biological, economic, and social information for management; and methods for matching log data to Trip

Information Program samples for indices of effort.

(5) For the U.S. Caribbean, collection of socio-demographic and economic cost and returns data sufficient to evaluate management proposals to limit the use of fish and/or lobster traps.

3. *Red Snapper Research*

The Sustainable Fisheries Act of 1996 required the Secretary of Commerce to conduct a thorough and independent evaluation of the scientific and management basis for conserving and managing the red snapper fishery. NMFS has developed a research plan to improve the management of red snapper to address this requirement. The research priorities below are based on this research plan.

a. *Red Snapper Bycatch.* The bycatch of red snapper can have significant impacts from a fisheries management and ecological standpoint. Research on bycatch of red snapper should focus on the following:

(1) *Shrimp trawl bycatch of red snapper.* Specific guidance and research requirements are contained in the Cooperative Bycatch Plan for the Southeast, available from NMFS (see **ADDRESSES**). Studies are needed to address:

(a) Identification, development, and evaluation of gear, non-gear, and tactical fishing options to reduce bycatch of red snapper.

(b) Development and evaluation of statistical methods to estimate the bycatch mortality of red snapper in the Gulf shrimp trawl fisheries.

(c) Studies of the survival rates of juvenile red snapper that escape shrimp trawls through bycatch reduction devices (BRDs).

(2) *Directed red snapper fisheries.* The reef fish fishery is exploited by a variety of fishing gear and tactics. The following research on regulatory discards is needed to better evaluate the effectiveness of management measures such as minimum size limits and closed seasons:

(a) Development and evaluation of gear and fishing tactics to minimize the bycatch of or increase the survival of discarded red snapper and other reef fish species.

(b) Characterization and assessment of the impact of bycatch of undersized reef fish species, including release mortality, during recreational and commercial fishing. Research on the catch-and-release mortality of red snapper and other reef fish species, by gear (e.g. capture by commercial bandit rigs that are electrically or hydraulically powered), fishery (e.g. headboat, private boat, charter boat, commercial), and depth.

Studies are needed to specifically relate "sink or swim" data, which can be obtained through observer programs, with long-term survival rates.

(c) Research to document predation rates on discarded red snapper and other reef fish species.

(3) *Economic considerations of bycatch reduction*

(a) Develop and test models, using actual or hypothesized data, that explicitly consider the costs and gains of bycatch reduction. The models should include the effects of the management systems for the directed and bycatch fisheries and should attempt to describe criteria for the correct level of bycatch reduction (e.g., marginal cost and value of reduction are equal). Studies should evaluate alternatives to bycatch reduction devices (BRDs).

(b) Develop economic incentives and other innovative alternatives to gear and season/area restrictions as ways to reduce bycatch. The proposal should attempt to contrast the relative costs, potential gains, and levels of bycatch reduction associated with traditional methods and any innovative alternatives addressed by the proposals.

b. *Red snapper biological information.* Collection of basic biological data on red snapper.

(1) Contributions to the development of annual age-length keys and description of the age structure of red snapper populations.

(2) Design of sampling systems to provide a production-style aging program for the red snapper fishery. Effective dockside sampling programs are needed over a wide geographic range to collect information on reproductive state, size, age, and sex.

(3) Reproduction studies of red snapper.

(a) Maturity schedules, fecundity, and sex ratios of red snapper.

(b) Studies to characterize the actual reproductive contribution of females by age.

(4) Identification of sources of recruitment of red snapper in Gulf waters.

c. *Red snapper population assessment.* (1) Determination of the habitat and limiting factors for important red snapper populations in the Gulf.

(2) Estimates of red snapper abundance, age structure and population dynamics on oil platforms and other artificial structures.

d. *Management of red snapper.* (1) Characterization and evaluation of biological impacts (e.g., changes in age or size structure of red snapper

populations in response to management strategies).

(2) Research to evaluate the use of minimum size limits as a management tool in the red snapper fishery.

(3) Texas does not participate in the Marine Recreational Fisheries Statistics Survey (MRFSS); thus, research is needed to collect economics data on Texas anglers. Data requirements include those identified in the MRFSS add-on economic survey developed by NMFS. (See Section XIII.A., regarding collection of information.)

(4) Research to develop bioeconomic models to optimize allocations and benefits derived from the red snapper resource.

4. Coastal Migratory Pelagic Fisheries

The commercial and recreational demand for migratory coastal pelagics has led to overfishing for certain. Additionally, some are transboundary with Mexico and other countries and may ultimately demand international management attention. Current high priorities include:

a. Recruitment indices for king and Spanish mackerel, cobia, dolphin, wahoo, and bluefish, primarily from fishery-independent data sources.

b. Fishery-independent methods of assessing stock abundance of king and Spanish mackerel.

c. Release mortality data for all coastal pelagic species.

d. Improved catch statistics for all species in Mexican waters, with special emphasis on king mackerel, dolphin, and wahoo. This includes length-frequency and life history information.

e. Information on populations of coastal pelagics overwintering off the Gulf of Mexico and the South Atlantic States of North Carolina, South Carolina, Georgia, and Florida, especially concerning population size, age and movement patterns. Calculate the mixing rates for Atlantic/Gulf king mackerel on an annual basis.

f. Development of a practical method for aging dolphin.

g. Basic biostatistics for cobia, dolphin, and wahoo to develop age-length keys and maturation schedules for stock assessments and to evaluate stock structures.

h. Impact of bag limits on total catch and landings of king and Spanish mackerel, dolphin, wahoo, and cobia.

i. Demand and/or supply functions for the commercial king mackerel fisheries, including baseline cost and return data. Cooperative efforts that cover the entire Southeast and employ common methodologies for all geographic areas are strongly encouraged.

j. Sociological and anthropological surveys of coastal pelagic fisheries.

5. Groundfish and Estuarine Fishes

Substantial stocks of groundfish and estuarine species occur in the Gulf and South Atlantic. Most of the database for assessments comes from studies conducted by NMFS and state fishery management agencies. Because of the historic and current size of these fish stocks, their importance as predator and prey species, and their current or potential use as commercial and recreational fisheries, more information on their biology and life history is needed. General research needs are:

a. Red drum. (1) Size and age structure of the offshore adult stock in the Gulf and South Atlantic.

(2) Life history parameters and stock structure for the Gulf and the South Atlantic: Migratory patterns, long-term changes in abundance, growth rates, and age structure. Specific research needs for Atlantic red drum are estimates of fecundity as a function of length and weight and improved coast-wide coverage for age-length keys.

(3) Catch-and-release mortality rates from inshore and nearshore waters.

(4) Estimates of absolute Gulf-wide abundance of red drum.

b. Life history and stock structure for weakfish, menhaden, spot, and croaker in the Gulf and the South Atlantic: Migratory patterns, long-term changes in abundance, growth rates, and age structure and comparisons of the inshore and offshore components of recreational and commercial fisheries.

c. Improved catch-and-effort statistics from recreational and commercial fisheries, including development of age-length keys for size and age structure of the catch, to develop production models. (See Section XIII.A., regarding collection of information.)

d. Abundance and distribution information on spiny dogfish off the coast of North Carolina, and particularly southern North Carolina.

6. Essential Fish Habitat

(a) Determine the effects of fishing gears (e.g., trawls and traps) and practices (e.g., gear retrieval and anchoring) on essential fish habitat (EFH), with emphasis on benthic habitats within the EEZ of the Caribbean, southern U.S. Atlantic, and Gulf of Mexico regions.

(b) Develop scientific data to allow the identification and refinement, as appropriate, of EFH designations for the various life stages of federally managed species.

(c) Develop scientific data to allow the identification and refinement, as

appropriate, of Habitat Areas of Particular Concern (HAPC) designation for the various life stages of federally managed species.

(d) Develop GIS mapping protocols and tools to allow the presentation of EFH, HAPC, fishery distribution information, and other relevant data for the southeastern United States, including Puerto Rico and the U.S. Virgin Islands.

7. General

There are many other areas of research that need to be addressed for improved understanding and management of fishery resources. These include methods for data collection, management, analysis, and better conservation. Examples of such research needs include:

a. Identification of fishing communities, characterization of community dependence upon fishery resources and demographics of the families dependent on fishing or fishing related businesses.

b. Development of improved methods and procedures for transferring technology and educating constituency groups concerning fishery management and conservation programs. Of special importance are programs concerned with controlled access and introduction of conservation gear.

c. Design and evaluation of innovative approaches to fishery management with special attention given to those approaches that control access to specific fisheries.

d. Examine the feasibility and efficacy of license buy-back programs.

e. Social, cultural, and/or economic aspects of establishing fishery reserves. Studies should employ accepted data collection methods and should include consumptive users, non-consumptive users, and persons not dependent on use of marine resources. Various management alternatives should be considered in the studies, e.g., exclude all users, exclude all consumptive users, size of reserve, anchoring rules, or any other relevant management tools. (See Section XIII.A., regarding collection of information.)

f. Design and evaluation of limited access options for the red snapper and king mackerel recreational fisheries with specific emphasis on modes of fishing and jurisdictional issues.

g. Estimation of demand models for recreational fishing trips when the target species include a single species, an aggregate of related species, or all species combined. Studies using new data from the Southeast economics add-on to Marine Recreational Fisheries Statistics Survey are highly encouraged.

Priority species include red drum Spanish mackerel, red grouper, wahoo, and dolphin.

h. Sociocultural survey of commercial fishing in the Florida Keys. Proposals should address all fishing enterprises including potential sociocultural effects of large marine reserves in the Tortugas area.

i. Studies to evaluate the value of non-consumptive uses of marine resources, especially as related to diving activities and marine reserves.

XIII. Evaluation Process and Criteria

A. Initial Screening of Applications. Applications are reviewed by NOAA's MARFIN Program Manager to determine whether they are responsive to this solicitation. Applications must: be received by the deadline date (see **DATES**); include OMB form 424 dated and signed by an authorized representative; be submitted by an eligible applicant; address one of the funding priorities; include a budget, statement of work, and milestones; and identify the principal investigator. The applicant will be notified if the application does not conform to these requirements. If the deadline for submission has passed, the application will be returned to the applicant.

B. Evaluation of Proposed Projects.

1. Technical Evaluation. Applications responsive to this solicitation will be evaluated by three or more appropriate private and public sector experts to determine their technical merit. These reviewers provide comments and assign scores to the applications based on the following criteria, with the weights shown in parentheses:

a. Does the proposal have a clearly stated goal(s) with associated objectives that meet the needs outlined in the project narrative? (30 points maximum)

b. Does the proposal clearly identify and describe, in the project outline and statement of work, scientific methodologies and analytical procedures that will adequately address project goals and objectives? (30 points maximum)

c. Do the principal investigators provide a realistic timetable to enable full accomplishment of all aspects of the research? (20 points maximum)

d. Are effective methods proposed that will enable the principal investigators to maintain stewardship of the project performance, finances, cooperative relationships, and reporting requirements? (10 points maximum)

e. Does the budget appropriately allocate and justify costs? (10 points maximum)

5. Are the proposed costs appropriate for the scope of work proposed? (10 points)

2. *Scientific Panel*. Applications together with the technical reviewers' comments and scores are presented to a Scientific Panel composed of NMFS scientific experts. This panel provides comments and rates each proposal as either "Recommended for Funding" or "Not Recommended for Funding" based on qualitative assessments which include a technical evaluation of the merits of the science.

3. *MARFIN Panel*. Proposals that are "Recommended for Funding" by the Scientific Panel are presented to a panel of non-NOAA fishery experts known as the MARFIN Panel. Each member of the MARFIN Panel individually considers the significance of the needs addressed in each proposal, how the project affects industry, and how the project addresses issues that are of highest importance in regional fisheries management. The individuals on the MARFIN Panel provide comments and rate each of these proposals as either "Recommended for Funding" or "Not Recommended for Funding."

4. *Regional Administrator*. The proposals reviewed by the MARFIN Panel are ranked by the Program Manager in the order of preferred funding, based on the number of MARFIN Panel members recommending the proposal for funding, then provided to the Regional Administrator, who is the selecting official. The Regional Administrator also receives the MARFIN Panel members' individual comments, and comments from the Scientific Panel for projects rated as "Recommended for Funding."

The Regional Administrator, in consultation with the Assistant Administrator for Fisheries, determines the projects to be funded. The Regional Administrator will justify in writing any selection he makes that falls outside the MARFIN Panel's order of preferred funding.

The exact amount of funds awarded, the final scope of activities, the project duration, and specific NMFS cooperative involvement with the activities of each project are determined in pre-award negotiations between the applicant, the NOAA Grants Office and the NMFS Program Office. Projects must not be initiated by recipients until a signed award is received from the NOAA Grants Office. Successful applications generally are recommended within 210 days from the date of publication of this notice. The earliest start date of awards average 90 days after each project is selected and after all NMFS/applicant negotiations of

cooperative activities have been completed. The earliest start date of awards is about 300 days after the date of publication of this notice. Applicants should consider this selection and processing time in developing requested start dates for their applications.

C. NMFS can, at its discretion:

1. *Consult with members of the fishing industry, management agencies, environmental organizations, and academic institutions*. NMFS may, at its discretion, request comments from members of the fishing and associated industries, groups, organizations, and institutions who have knowledge in the subject matter of a project or who would be affected by a project.

2. *Consult with Government agencies*. Applications may be reviewed by the NMFS Southeast Region Program Office in consultation with the NMFS Southeast Fisheries Science Center, including appropriate operations and laboratory personnel, the NOAA Grants Office and, as appropriate, DOC bureaus and other Federal agencies.

XIII. Other Requirements

A. *Federal policies and procedures*. Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards. Women and minority individuals and groups are encouraged to submit applications under this program. If a grant is made that specifically requires the collection of information from the public, the grantee will be responsible for preparing the documentation necessary to obtain Paperwork Reduction Act (PRA) approval prior to the start of the collection. This approval process takes a minimum of 4 months. This provision especially applies to priorities 1(f)(3), 3(d)(3), 5(c), and 7(e). Information on the PRA process can be found at the following Web site address: www.rdc.noaa.gov/prs.

B. *Past performance*. Any first-time applicant for Federal grant funds is subject to a pre-award accounting survey prior to execution of the award. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

C. *Pre-award activities*. If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

D. *No obligation of future funding.* If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

E. *Delinquent Federal debts.* No award of Federal funds shall be made to an applicant or to its subrecipients who have any outstanding delinquent Federal debt or fine until either:

1. The delinquent account is paid in full;
2. A negotiated repayment schedule is established and at least one payment is received; or
3. Other arrangements satisfactory to DOC are made.

F. *Name check review.* All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management honesty or financial integrity. Potential non-profit and for-profit recipients may also be subject to reviews of Dun and Bradstreet data or other similar credit checks.

G. *Primary applicant certifications.* All primary applicants must submit a completed Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

1. *Nonprocurement debarment and suspension.* Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

2. *Drug-free workplace.* Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. *Anti-lobbying.* Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than \$100,000; and

4. *Anti-lobbying disclosures.* Any applicant who has paid or will pay for

lobbying using any funds must submit a Form SL-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

H. *Lower tier certifications.* Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF-LLL, "Disclosure of Lobbying Activities." Form CD-512 is intended for the use of recipients and should not be transmitted to DOC. A form SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

I. *False statements.* A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

J. *Intergovernmental review.* Applications under this program are subject to the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs."

K. *Requirement to buy American-made equipment and products.* Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program.

Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

This action has been determined to be not significant for purposes of Executive Order 12866.

Cooperative agreements awarded pursuant to pertinent statutes shall be in accordance with the Fisheries Research Plan (comprehensive program of fisheries research) in effect on the date of the award.

Federal participation under the MARFIN Program may include the assignment of DOC scientific personnel and equipment.

Reasonable, negotiated financial compensation will be provided under awards for the work of eligible grantee workers.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number. This notice contains collection-of-information requirements subject to the Paperwork Reduction Act which have been approved under OMB control number 0648-0175. Public reporting burden for agency-specific collection-of-information elements, exclusive of requirements specified under applicable OMB circulars, is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This includes a requirement to submit up to 10 copies of applications. Send comments regarding this reporting burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to NMFS (see ADDRESSES).

Authority: 15 U.S.C. 713c-3(d).

Dated: February 15, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01-4417 Filed 2-21-01; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service

[I.D. 021301F]

Marine Mammals and Endangered Species; National Marine Fisheries Service File No. 989-1602; U.S. Fish and Wildlife Service File No. 033958.

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; U.S. Fish and Wildlife Service, Interior.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Geo-Marine, Inc., 550 East 15th Street, Plano, TX 75074, has applied in due form for a permit to take all marine mammal species (Cetacea, Pinnipedia, and Sirenia) and sea turtle species

occurring in Puerto Rican waters for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before March 26, 2001.

ADDRESSES: The application and related documents are available for review upon written request or by appointment. (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, office of Protected Resources, NMFS, 301/713-2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR parts 18 and 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 17 and 222-226).

The Applicant requests authorization to conduct aerial surveys for marine mammals and sea turtles in near-shore waters of Vieques, Puerto Rico. Marine mammal species include: from Suborder Mysticeti, Family Balaenopteridae: Bryde's whale (*Balaenoptera edeni*), fin whale (*Balaenoptera physalus*), sei whale (*Balaenoptera borealis*), humpback whale (*Megaptera novaeangliae*), minke whale (*Balaenoptera acutorostrata*); from Suborder Odontoceti, Family Physteridae: Sperm whale (*Physeter macrocephalus*), pygmy sperm whale (*Kogia breviceps*), dwarf sperm whale (*Kogia simus*); from Suborder Odontoceti, Family Ziphiidae: Cuvier's beaked whale (*Ziphius cavirostris*), Blainville's beaked whale (*Mesoplodon densirostris*), Gervis' beaked whale (*Mesoplodon europaeus*), True's beaked whale (*Mesoplodon mirus*); from Suborder Odontoceti, Family Delphinidae: Melon-headed whale (*Peponocephala electra*), short-finned pilot whale (*Globicephala macrorhynchus*), Risso's dolphin (*Grampus griseus*), false killer whale (*Pseudorca crassidens*), pygmy killer whale (*Feresa attenuata*), bottlenose dolphin (*Tursiops truncatus*), rough-toothed dolphin (*Steno bredanensis*), Atlantic spotted dolphin (*Stenella frontalis*), pantropical spotted dolphin (*Stenella attenuata*), striped dolphin (*Stenella coeruleoalba*), spinner dolphin (*Stenella longirostris*), clymene dolphin (*Stenella clymene*), common dolphin (*Delphinus delphis (capensis)*), killer whale (*Orcinus orca*), Fraser's dolphin

(*Lagenodelphis hosei*); from Order Carnivora, Suborder Pinnipedia, Family Phocidae: Hooded seal (*Cystophora cristata*); from Order Sirenia, Family Trichechidae: West Indian manatee (*Trichechus manatus*). Sea turtle species include: from Suborder Cryptodira, Family Dermochelyidae: Leatherback sea turtle (*Dermochelys coriacea*); from Family Cheloniidae: Green sea turtle (*Chelonia mydas*), hawksbill sea turtle (*Eretmochelys imbricata*), Kemp's Ridley sea turtle (*Lepidochelys kempii*), loggerhead sea turtle (*Caretta caretta*), olive ridley sea turtle (*Lepidochelys olivacea*).

The surveys would take place from fixed-wing and rotary wing aircraft flying no lower than 500 ft (152 m) above ground or sea level. The objective of the surveys is to determine occurrence, migration routes, and habitat utilization for the species occurring in the Inner Range, Atlantic Fleet Weapons Training Facility, Vieques. This area includes all waters surrounding the east end of Vieques for a distance of approximately 2 miles offshore. The results of this study will be used to assist the Navy in the planning of exercises conducted in this area. Data from these surveys would also be used in ongoing section 7 consultation under the ESA.

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.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation 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 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 by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents associated with this application are in the following locations:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289);

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, Massachusetts 01930 (978/281-9138)

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432 (813/570-5312); and

U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Arlington, VA 22203 (1-800-358-2104).

Dated: January 29, 2001.

Eugene T. Nitta,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

Dated: January 30, 2001.

Timothy J. Van Norman,

Chief, Branch of Permits, Division of Management Authority, U.S. Fish and Wildlife Service.

[FR Doc. 01-4414 Filed 2-21-01; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020901E]

Fisheries off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; 2001 Bank-specific Harvest Guidelines

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

ACTION: No harvest guideline for crustaceans.

SUMMARY: NMFS announces that annual harvest guidelines for the commercial lobster fishery around the Northwestern Hawaiian Islands (NWHI) will not be issued for 2001.

ADDRESSES: Copies of background material pertaining to this action may be obtained from Dr. Charles Karnella, Administrator, NMFS, Pacific Islands Area Office, 1601 Kapiolani Blvd., Suite 1101, Honolulu, HI 96814.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru at 808-973-2937.

SUPPLEMENTARY INFORMATION: Under the Fishery Management Plan for the Crustacean Fisheries of the Western

Pacific Region, 50 CFR 660.50(b)(2), NMFS is required to publish by February 28 of each year, the harvest guidelines for lobster Permit Area 1 around the NWHI. The year 2000 NWHI lobster fishery was closed because of concerns raised by NMFS scientists about the health of the fishery and as a precautionary measure to prevent overfishing of the lobster resources. Furthermore, NMFS is under a Court Order issued by the U.S. District Court for the District of Hawaii to keep the crustacean fisheries closed until an Environmental Impact Statement and a Biological Opinion have been prepared and issued for the crustacean fisheries. In addition, recently issued Executive Orders 13178 and 13196 appear to close indefinitely the entire NWHI crustacean fishery. Given these events, NMFS announces that it will not be publishing any harvest guidelines for this fishery for the year 2001. Although no regulatory action has been taken to close the NWHI lobster fishery for 2001, NMFS anticipates that this will occur in the near future. Therefore, no harvest of NWHI lobster resources will be allowed and effectively the harvest guideline will be zero. In addition, there is still uncertainty regarding the model assumptions used by NMFS scientists to estimate the exploitable lobster population. However, as indicated in the NMFS 2001 "Report to Congress" on the status of fisheries, the lobster stock is not overfished. NMFS intends to conduct biological research on the status of NWHI lobster resources and to examine the resulting data for indications as to the appropriate direction for future fishery management actions.

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

Dated: February 15, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 01-4415 Filed 2-21-01; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board (DSB) Task Force on Intelligence Needs for Homeland Defense Follow-On Initiative will meet in closed session on February 27-28, 2001; March 27-28

2001; and April 24-25, 2001, at Strategic Analysis, Inc., 3601 Wilson Boulevard, Arlington, VA 22201. This Task Force will explore the intelligence ramifications posed by a changing spectrum of threat regimes, including biological, chemical, information, nuclear, and radiological weapons.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will: consider the broad spectrum of intelligence issues from early threat detection to deterrence, through response including attribution; evaluate the collection and analysis of target-related information and weapon unique information; examine the role of HUMINT against these missions as well as the technology that the HUMINT collectors need to be equipped with; consider strategic indications and warning and tactical warning dissemination and how the two need to be merged; analyze methodology to correlate large data flows spatially temporally and functionally (Low SNR); and assess the robustness of today's intelligence apparatus for coping with these challenges.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1), and that accordingly these meetings will be closed to the public.

Due to critical mission requirements and scheduling conflicts, there is insufficient time to provide timely notice required by section 10(a)(2) of the Federal Advisory Committee Act and Subsection 101-6.1015(b) of the GSA Final Rule on Federal Advisory Committee Management, 41 CFR Part 101-6, which further requires publication at least 15 calendar days prior to the meeting of the Task Force.

Dated: February 14, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-4333 Filed 2-21-01; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board (DSB) Task Force on Training for Future Conflicts will meet in closed session on February 28, 2001, at SAIC, 4001 N. Fairfax Drive, Arlington, VA 22201. This Task Force will focus on identifying and characterizing what education and training are demanded by Joint Vision 2010/2020, and will address the development and demonstration time phasing over the next two decades for the combined triad of technology modernization, operational concepts, and training.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will also identify those approaches and techniques that potential enemies might take that could prepare them to revolutionize their warfare capabilities, thereby achieving a training surprise against the U.S. or its allies. This review will include, but not be limited to, unique training/education developments which might be spawned by allies or an adversary, training techniques and methodologies which might be transferred from the U.S. or through third parties, and finally, the possibilities emerging as a result of the globalization of military and information technologies, related commercial services and their application by other nations.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board meeting, concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly this meeting will be closed to the public.

Due to critical mission requirements and scheduling conflicts, there is insufficient time to provide timely notice required by section 10(a)(2) of the Federal Advisory Committee Act and Subsection 101-6.1015(b) of the GSA Final Rule on Federal Advisory Committee Management, 41 CFR Part 101-6, which further requires publication at least 15 calendar days prior to the meeting of the Task Force.

Dated: February 14, 2001.

L.M. Bynum,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

[FR Doc. 01-4334 Filed 2-21-01; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board (DSB) Task Force Precision Targeting will meet in closed session March 29-30, 2001; April 19-20, 2001; May 10-11, 2001; June 14-15, 2001; and July 26-27, 2001, at SAIC, 4001 N. Fairfax Drive, Arlington, VA 22201. The Task Force will examine the full range of the precision weapons targeting in tactical military operations, from target execution, location, and identification through mission execution and damage assessment. Target types will include fixed installations and both transportable and mobile military force elements.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. The Task Force will review: all planned precision weapons programs and procurements to determine the degree to which these weapons are compatible with targeting requirements for different target classes; the degree to which existing and planned reconnaissance and surveillance assets are used to effectively develop target sets, real time targeting data and perform battle damage assessment under varied degrees of cover, concealment and deception; our ability to identify and precisely locate targets while minimizing false alarms using automatic target recognition techniques and precision location technologies; and our ability to attack moving targets.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1), and that accordingly these meetings will be closed to the public.

Dated: February 14, 2001.

L.M. Bynum,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

[FR Doc. 01-4335 Filed 2-21-01; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board (DSB) Task Force on Chemical Warfare Defense will meet in closed session on April 10, 2001, and April 24, 2001, at SAIC, 4001 N. Fairfax Drive, Arlington, VA 22201. The Task Force will assess the possibility of controlling the risk and consequences of a chemical warfare (CW) attack to acceptable national security levels within the next five years.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will assess current national security and military objectives with respect to CW attacks; CW threats that significantly challenge these objectives today and in the future; the basis elements (R&D, materiel, acquisition, personnel, training, leadership) required to control risk and consequences to acceptable levels, including counter-proliferation; intelligence, warning, disruption; tactical detection and protection (active and passive); consequence management; attribution and deterrence; and policy. The Task Force will also assess the testing and evaluation necessary to demonstrate and maintain the required capacity and any significant impediments to accomplishing this goal.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1), and that accordingly these meetings will be closed to the public.

Dated: February 14, 2001.

L.M. Bynum,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

[FR Doc. 01-4336 Filed 2-21-01; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

In compliance with section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Headquarters Air Force Services Agency (HQ AFSVA) announces a continuation of use to the existing Air Force Form (AF) 3211, Customer Comment Card and seeks public comment of the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) waive to minimize the burden of the information collection on respondents; including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received within April 23, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to HQ AFSVA/SVOHL, Lodging Branch, 10100 Reunion Place, Suite 401, San Antonio, TX 78216-4138, ATTN: Lt Col Guy Palumbo or MSgt Suzanne Henson.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call HQ AFSVA/SVOHL at (210) 652-8875 or by fax at (210) 652-7041.

Title, Associated Form, and OMB Number: Customer Comments, AF Form 3211, OMB Number 0701-0146.

Needs and Uses: Each guest of Air Force Lodging and its contract lodging operations are provided access to AF Form 3211. The AF Form 3211 gives each guest the opportunity to comment

on facilities and services received. Completion and return of the form is optional. The information collection requirement is necessary for Wing leadership to assess the effectiveness of their Lodging program.

Affected Public: AFI 34-246, Air Force Lodging Program, specifies who is an authorized guest in Air Force Lodging. Some examples of the public include construction contractors and special guests of the Installation Commander.

Annual Burden Hours: 16.67.

Number of Respondents: 200.

Responses Per Respondent: 1.

Average Burden Per Response: 5 Minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are authorized guests of Air Force Lodging. The AF Forms 3211 can be used for assessing background documentation/supporting material for all types of management decisions. Higher headquarters also reviews them during lodging assistance and Innkeeper Award competitions.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01-4413 Filed 2-21-01; 8:45 am]

BILLING CODE 5001-05-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00-3766-002]

Canal Electric Company; Notice of Filing

February 15, 2001.

Take notice that on January 22, 2001, Canal Electric Company (Canal) tendered for filing with the Federal Energy Regulatory Commission (Commission), a corrected copy of the second restated sixth amendment to the Power Contract between Canal and its retail affiliates Cambridge Electric Light Company and Commonwealth Electric Company (Canal Rate Schedule FERC No. 33, the Seabrook Power Contract). This filing corrects Canal's filing made with the Commission on December 18, 2000 in the above-referenced proceeding, whereby it submitted the Restated Sixth Amendment. This corrected filing re-designates the Seabrook Power Contract in accordance with the requirements of the Commission's Order 614.

Any person desiring to be heard or to protest such filing should file a motion

to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 1, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.fed.us/efi/doorbell.htm>.

David P. Boergers,

Secretary.

[FR Doc. 01-4351 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01-498-002]

Carolina Power & Light Company; Notice of Filing

February 15, 2001.

Take notice that on February 9, 2001, Carolina Power & Light Company (CP&L) amended the filing in this Docket as Ordered by The Commission.

Copies of the filing were served upon the North Carolina Utilities Commission and South Carolina Public Service Commission.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 2, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.fed.us/efi/doorbell.htm>.

David P. Boergers,

Secretary.

[FR Doc. 01-4344 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01-1028-001]

Commonwealth Edison Company; Notice of Filing

February 15, 2001.

Take notice that on February 9, 2001, Commonwealth Edison Company (ComEd) filed to amend its January 22, 2001 filing in the above referenced proceeding to withdraw the long-term firm point-to-point transmission service agreement with Dynegy Power Marketing, Inc. (DYPM) which ComEd had designated as Original Service Agreement No. 494 (DYPM Agreement). ComEd is withdrawing the DYPM Agreement because, at the time it was filed, the DYPM Agreement had already been superseded by a subsequent set of transactions requested and confirmed by DYPM.

A copy of this filing is being mailed to each person or company named on the Commission's service list in the above-captioned proceeding. ComEd has also mailed a copy of this filing to DYPM.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 2, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the

Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.fed.us/efi/doorbell.htm>.

David P. Boergers,
Secretary.

[FR Doc. 01-4347 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01-45-000]

Constellation Power Source Generation, Inc.; Notice of Amended and Restated Application for Commission Redetermination of Exempt Wholesale Generator Status

February 15, 2001.

Take notice that on January 19, 2001, Constellation Power Source Generation, Inc. (Constellation) tendered for filing with the Federal Energy Regulatory Commission (Commission), an amended and restated application for redetermination of exempt wholesale generator status.

Any person desiring to be heard concerning the amended and restated application for exempt wholesale generator status should file a motion to intervene or comments 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). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended and restated application. All such motions and comments should be filed on or before March 1, 2001, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection or on the Internet at <http://www.ferc.fed.us/online/rims.htm> (please call (202) 208-2222 for assistance). Comments and protest may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the

Commission's web site at <http://www.ferc.fed.us/efi/doorbell.htm>.

David P. Boergers,
Secretary.

[FR Doc. 01-4343 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01-734-001]

New York State Electric & Gas Corporation; Notice of Filing

February 15, 2001.

Take notice that on February 8, 2001, New York State Electric & Gas Corporation (NYSEG) on February 8, 2001 tendered for filing a fully executed service agreement (Service Agreement) between NYSEG and Conectiv Energy Supply, Inc. (Conectiv) pursuant to section 35.13 of the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR 35.13. NYSEG originally filed a partially executed Service Agreement with the Commission on December 20, 2000 pursuant to Part 35 of the Commission's Regulations, 18 CFR part 35. As of the date of this submission, the Commission had not accepted the Service Agreement with the requested effective date of December 21, 2000. Under the Service Agreement, NYSEG may provide capacity and/or energy to Conectiv in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 3.

NYSEG has requested that the Commission accept the fully executed Service Agreement and that the Service Agreement be given an effective date of December 21, 2000, the effective date originally requested by NYSEG when it filed the partially executed Service Agreement.

NYSEG has served copies of the filing upon the New York State Public Service Commission and Conectiv.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 1, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.fed.us/efi/doorbell.htm>.

David P. Boergers,
Secretary.

[FR Doc. 01-4345 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01-931-001]

Panda Gila River, L.P.; Notice of Filing

February 15, 2001.

Take notice that on February 7, 2001, Panda Gila River, L.P. (Panda Gila) tendered for filing pursuant to Rule 205, 18 CFR 385.205, an amendment to its Application for Blanket Authorizations, Certain Waivers and Order Approving Rate Schedule originally filed on January 11, 2001 (Application).

The amendment to the Application identified the following changes: (i) The redesignation of the FERC Electric Rate Schedule No. 1 ("Rate Schedule") for market-based rates as "Original Sheet No. 1" of the "FERC Electric Tariff Original Volume No. 1" and the Code of Conduct as "Original Sheet No. 2"; (ii) the addition of a new Paragraph 5 entitled "Prohibited Transactions" to the Rate Schedule which precludes sales to electric utility affiliates under the Rate Schedule and former paragraphs 5, 6 and 7 of the Rate Schedule are now renumbered as paragraphs 6, 7 and 8, respectively; (iii) the amendment of the effective date for the Rate Schedule to April 1, 2001; and (iv) that the initial construction date of Panda Gila's 2,350 MW natural gas-fired generating facility is August 2001.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before February 26, 2001. Protests will be considered by

the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.fed.us/efi/doorbell.htm>.

David P. Boergers,

Secretary.

[FR Doc. 01-4349 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-40-000]

Panhandle Eastern Pipeline Company; Notice of Informal Settlement Conference

February 15, 2001.

An informal settlement conference will be held in the above docket regarding the Kansas ad valorem tax refund issues in the proceedings involving the Panhandle Eastern Pipeline Company system. The conference will be held on February 23, 2001, at the Kansas City Airport Marriott, 775 Brasilia, Kansas City, Missouri. The conference will be held from 8 a.m. to 5 p.m. For questions concerning the conference, please call Deborah Osborne, Dispute Resolution Service. Her telephone number is 202-208-0831 and her e-mail address is deborah.osborne@ferc.fed.us. All interested parties in the above-referenced docket are requested to attend.

David P. Boergers,

Secretary.

[FR Doc. 01-4341 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01-42-000]

PSEG Fossil LLC; Notice of Amended and Restated Application for Commission Redetermination of Exempt Wholesale Generator Status

February 15, 2001.

Take notice that on January 19, 2001, PSEG Fossil LLC (PSEG Fossil) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amended and restated application for redetermination of exempt wholesale generator status.

Any person desiring to be heard concerning the amended and restated application for exempt wholesale generator status should file a motion to intervene or comments 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). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended and restated application. All such motions and comments should be filed on or before March 1, 2001, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection or on the internet at <http://www.ferc.fed.us/online/rims.htm> (please call (202) 208-2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.fed.us/efi/doorbell.htm>.

David P. Boergers,

Secretary.

[FR Doc. 01-4342 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01-1011-001]

Redbud Energy LP; Notice of Filing

February 15, 2001.

Take notice that on February 7, 2001, Redbud Energy LP (Redbud) tendered for filing a revised Electric Rate Tariff FERC No. 1 submitted in connection

with its January 19, 2001 filing seeking market rate authority. The revisions are in compliance with the requirements of Order No. 614.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before February 28, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.fed.us/efi/doorbell.htm>.

David P. Boergers,

Secretary.

[FR Doc. 01-4346 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01-1178-001]

Sempra Energy Resources; Notice of Filing

February 15, 2001.

Take notice that on February 9, 2001, Sempra Energy Resources (Sempra) filed tariff pages to be substituted for Attachments B and D to Sempra's original application that was filed on February 6, 2001.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 2, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to

the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.fed.us/efi/doorbell.htm>.

David P. Boergers,
Secretary.

[FR Doc. 01-4348 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01-742-000]

St. Joseph Light & Power Company; Notice of Issuance of Order

February 15, 2001.

St. Joseph Light & Power Company (St. Joseph) submitted for filing a rate schedule under which St. Joseph will engage in wholesale electric power and energy transactions at market-based rates. St. Joseph also requested waiver of various Commission regulations. In particular, St. Joseph requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by St. Joseph.

On February 13, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by St. Joseph should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, St. Joseph is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate

purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of St. Joseph's issuance of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is March 15, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 01-4340 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01-930-001]

Union Power Partners, L.P.; Notice of Filing

February 15, 2001.

Take notice that on February 7, 2001, Union Power Partners, L.P. (UPP) tendered for filing pursuant to Rule 205, 18 CFR 385.205, an amendment to its Application for Blanket Authorizations, Certain Waivers and Order Approving Rate Schedule originally filed on January 11, 2001 (Application).

The amendment to the Application identified the following changes: (i) the redesignation of the FERC Electric Rate Schedule No. 1 (Rate Schedule) for market-based rates as "Original Sheet No. 1" of the "FERC Electric Tariff Original Volume No. 1" and the Code of Conduct as "Original Sheet No. 2"; (ii) the addition of a new Paragraph 5 entitled "Prohibited Transactions" to the Rate Schedule which precludes sales to electric utility affiliates under the Rate Schedule and former paragraphs 5, 6 and 7 of the Rate Schedule are now renumbered as paragraphs 6, 7 and 8, respectively; (iii) the amendment of the effective date for the Rate Schedule to April 1, 2001; and (iv) that the initial construction date of UPP's 2214 MW natural gas-fired generating facility is April, 2001.

Any person desiring to be heard or to protest such filing should file a motion

to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before February 26, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.fed.us/efi/doorbell.htm>.

David P. Boergers,
Secretary.

[FR Doc. 01-4350 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01-69-000, et al.]

Cogentrix/Batesville, LLC, et al.; Electric Rate and Corporate Regulation Filings

February 15, 2001.

Take notice that the following filings have been made with the Commission:

1. Cogentrix/Batesville, LLC; NRG Energy, Inc.

[Docket No. EC01-69-000]

Take notice that on February 13, 2001, Cogentrix/Batesville, LLC and NRG Energy, Inc. tendered for filing an application under section 203 of the Federal Power Act for approval of the transfer of a 51.37 percent non-managing indirect ownership interest in LSP Energy Limited Partnership to NRG Energy, Inc. LSP Energy Limited Partnership owns and operates an approximately 837 MW electric generation facility located in Batesville, Mississippi.

Comment date: March 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. American Electric Power Service Corporation

[Docket No. ER01-801-001]

Take notice that on February 12, 2001, American Electric Power Service Corporation (AEPSC), pursuant to an unreported letter order dated January 24, 2001, in the above-captioned docket, submitted for filing an original and six copies of rate schedule sheets accepted for filing therein designated according to Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000). The Service Agreements became effective December 28, 2000.

Comment date: March 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company

[Docket No. ER01-1214-000]

Take notice that on February 12, 2001, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with Engage Energy America LLC (Engage) under the NU System Companies' System Sale For Resale Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to Engage.

NUSCO requests that the Service Agreement become effective on January 1, 2001.

Comment date: March 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER01-1215-000]

Take notice that on February 12, 2001, PECO Energy Company (PECO) filed under Section 205 of the Federal Power Act, 16 U.S.C. S 792 et seq., an Agreement dated January 30, 2001 with Commonwealth Energy Corporation (CEC) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of February 9, 2001 for the Agreement.

PECO states that copies of this filing have been supplied to Commonwealth Energy Corporation and to the Pennsylvania Public Utility Commission.

Comment date: March 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company, the Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER01-1216-000]

Take notice that on February 12, 2001, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison

Company, and West Penn Power Company (Allegheny Power), filed an Interconnection Agreement (Agreement) with Allegheny Energy Supply Company, LLC as Service Agreement No. 341 under Allegheny Power's Open Access Transmission Tariff. The proposed effective date under the Agreement is July 1, 2002.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: March 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. UtiliCorp United Inc.

[Docket No. ER01-1218-000]

Take notice that on February 12, 2001, UtiliCorp United Inc. (UtiliCorp) tendered for filing Service Agreement No. 89 under UtiliCorp's FERC Electric Tariff, Third Revised Volume No. 25, a short-term firm point-to-point transmission service agreement between UtiliCorp's WestPlains Energy-Colorado division and The Legacy Energy Group, LLC.

UtiliCorp requests an effective date for the service agreement of January 31, 2001.

Comment date: March 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. UtiliCorp United Inc.

[Docket No. ER01-1219-000]

Take notice that on February 12, 2001, UtiliCorp United Inc. (UtiliCorp) tendered for filing Service Agreement No. 90 under UtiliCorp's FERC Electric Tariff, Third Revised Volume No. 25, a non-firm point-to-point transmission service agreement between UtiliCorp's WestPlains Energy-Colorado division and The Legacy Energy Group, LLC.

UtiliCorp requests an effective date for the service agreement of January 31, 2001.

Comment date: March 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Company

[Docket No. ER01-1220-000]

Take notice that on February 12, 2001, Arizona Public Service Company (APS) tendered for filing a Service Agreement to provide Network Integration Transmission Service under APS' Open Access Transmission Tariff to the Ajo Improvement Company.

A copy of this filing has been served on Ajo Improvement Company and the Arizona Corporation Commission.

Comment date: March 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Consumers Energy Company and International Transmission Company

[Docket No. ER01-1221-000]

Take notice that on February 12, 2001, Consumers Energy Company (Consumers) and International Transmission Company filed the Michigan Electric Coordinated Systems Transmission Interconnection and Control Area Operating Agreement between Consumers Energy Company and International Transmission Company (MECS Agreement). The MECS Agreement replaces and supersedes an existing agreement between Consumers and The Detroit Edison Company regarding the coordinated operation of the power pool commonly known as the Michigan Electric Coordinated Systems.

Comment date: March 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Allegheny Power

[Docket No. ER01-1223-000]

Take notice that on February 12, 2001 West Penn Power Company, Monongahela Power Company, and The Potomac Edison Company all doing business as Allegheny Power (Allegheny Power) filed changes to the Allegheny Power open-access transmission tariff (OATT) to add a new Attachment L containing generator interconnection procedures and Attachments M and N consisting of form of feasibility study agreement and interconnection and operating agreement. Allegheny states that the changes are necessary in order to implement required coordination with PJM utilities in anticipation of the implementation of the PJM West RTO. Allegheny requests an effective date of February 12, 2001.

Comment date: March 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,
Secretary.

[FR Doc. 01-4376 Filed 2-21-01; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6946-7]

Transfer of Confidential Business Information to Contractors

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer Confidential Business Information (CBI) to its contractor, DPRA, Inc. These data pertain to the quantities of hazardous waste generated and managed, and the disposition of those wastes. These data have been or will be submitted to EPA pursuant to the Biennial Reporting requirements of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended. Some of the information may have a claim of business confidentiality. DPRA, Inc. is assisting EPA in assessing the quality of the Biennial Report data, establishing a national data bases on hazardous waste generation and management, and in developing "The National Biennial RCRA Hazardous Waste Report (Based on 1999 Data)."

DATES: Transfer of confidential data submitted to EPA will occur no sooner than March 5, 2001.

ADDRESSES: Comments should be sent to Regina Magbie, Document Control Officer, Office of Solid Waste (5305W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Regina Magbie, Office of Solid Waste (5305W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, 703-308-7909.

SUPPLEMENTARY INFORMATION:

1. Transfer of Confidential Business Information

The U.S. Environmental Protection Agency is using Biennial Report data to establish a national data base on hazardous waste generation and management. These data will be used to characterize the demographics of and trends in hazardous waste generation and management. Under EPA Contract No. GS-35F-0063K, DPRA, Inc. will assist the Information Management Branch, Communications, Information, and Resources Management Division, Office of Solid Waste, in assessing the quality of the 1999 Biennial Report data, establishing the National Biennial Report data base, and preparing the 1999 National Report based on those analyses. Some of the information being transferred may be claimed as Confidential Business Information (CBI). In accordance with 40 CFR 2.305(h), EPA has determined that DPRA, Inc. requires access to CBI submitted to EPA under the authority of RCRA to perform work satisfactory under the above noted contract. EPA is issuing this notice to inform all submitters of CBI on their 1989, 1991, 1993, 1995, 1997 and 1999 Hazardous Waste Report Forms (EPA Form 8700-13 A/B), or State developed biennial report forms, that EPA may transfer to this firm, on a need-to-know basis, CBI collected under the authority of RCRA. Upon completing their review of materials submitted, DPRA, Inc. will return all material to EPA.

DPRA, Inc. has been authorized to have access to RCRA CBI under the EPA "Contractor Requirements for the Control and Security of RCRA Confidential Business Information Security Manual." EPA will approve the security plan of the contractor to ensure that their facility complies with security procedures outlined in the security manual prior to RCRA CBI being transmitted to the contractors. Contractor personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to confidential information.

Dated: February 6, 2001.

Elizabeth A. Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 01-4401 Filed 2-21-01; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6947-6]

Coastal Nonpoint Pollution Control Program: Approval Decisions on Pennsylvania and Virginia Coastal Nonpoint Pollution Control Programs

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and the Environmental Protection Agency.

ACTION: Notice of Intent to Approve the Pennsylvania and Virginia Coastal Nonpoint Programs.

SUMMARY: Notice is hereby given of the intent to fully approve the Pennsylvania and Virginia Coastal Nonpoint Pollution Control Programs (coastal nonpoint programs) and of the availability of the draft Approval Decisions on conditions for the Pennsylvania and Virginia coastal nonpoint programs. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995. NOAA and EPA conditionally approved the Pennsylvania coastal nonpoint program on October 3, 1997 and the Virginia coastal nonpoint program on February 23, 1998. NOAA and EPA have drafted approval decisions describing how Pennsylvania and Virginia have satisfied the conditions placed on their programs and therefore have fully approved coastal nonpoint programs.

NOAA and EPA are making the draft decisions for the Pennsylvania and Virginia coastal nonpoint programs available for 30-day public comment periods. If no comments are received, the Pennsylvania and Virginia programs will be approved. If comments are received, NOAA and EPA will consider whether such comments are significant enough to affect the decision to fully approve the programs.

Copies of the draft Approval Decisions can be found on the NOAA website at <http://>

www.ocrm.nos.noaa.gov/czm/6217/ or may be obtained upon request from: Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. 301-713-3155, extension 201, e-mail joseph.flanagan@noaa.gov.

DATES: Individuals or organizations wishing to submit comments on the draft Approval Decisions should do so by March 26, 2001.

ADDRESSES: Comments should be made to John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, tel. 301-713-3155 extension 195, e-mail john.king@noaa.gov or to Fred Suffian, EPA Region 3, 1650 Arch Street (3WP14), Philadelphia, PA 19104, tel. 215-814-5753, e-mail suffian.fred@epa.gov.

FOR FURTHER INFORMATION CONTACT: For Pennsylvania, Neil Christerson, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. 301-713-3155, extension 167, e-mail neil.christerson@noaa.gov; for Virginia, Elisabeth Morgan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. 301-713-3155, extension 166, e-mail elisabeth.morgan@noaa.gov. (Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration).

Dated: February 15, 2001.

Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce.

Diane C. Regas,

Acting Assistant Administrator, Office of Water, Environmental Protection Agency.

[FR Doc. 01-4402 Filed 2-21-01; 8:45 am]

BILLING CODE 3510-08-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6937-1]

Integrated Risk Information System (IRIS); Announcement of 2001 Program; Request for Information

AGENCY: Environmental Protection Agency.

ACTION: Notice; announcement of IRIS 2001 program and request for scientific information on health effects that may result from chronic exposure to chemical substances.

SUMMARY: The Integrated Risk Information System (IRIS) is an Environmental Protection Agency (EPA) data base that contains EPA scientific consensus positions on human health effects that may result from chronic exposure to chemical substances in the environment. On January 12, 2000, EPA announced the 2000 IRIS agenda and solicited scientific information from the public for consideration in assessing health effects from specific chemical substances (65 FR 1863). A supplementary notice issued May 17, 2000 (65 FR 31309) added two additional substances to the agenda. Most of the health assessments listed in the two notices are in progress or near completion. Today, EPA is adding some additional health assessments to the IRIS agenda. This notice describes the Agency's plans, and solicits scientific data and evaluations for consideration in EPA's new assessments.

DATES: Please submit information in response to this notice by April 23, 2001.

ADDRESSES: Please send relevant scientific information to the IRIS Submission Desk in accordance with the instructions provided under "Submission of Information" in this notice.

FOR FURTHER INFORMATION: For information on the IRIS program, contact Amy Mills, National Center for Environmental Assessment (mail code 8601D), U.S. Environmental Protection Agency, Washington, DC 20460, or call (202) 564-3204, or send electronic mail inquiries to mills.amy@epa.gov. For general questions about access to IRIS, or the content of IRIS, please call the Risk Information Hotline at (513) 569-7254.

SUPPLEMENTARY INFORMATION:

Background

IRIS is an EPA data base containing Agency consensus scientific positions on potential adverse human health effects that may result from chronic (or lifetime) exposure to chemical substances found in the environment. IRIS currently provides health effects information on over 500 specific chemical substances.

IRIS contains chemical-specific summaries of qualitative and quantitative health information in support of the first two steps of the risk assessment process, i.e., hazard

identification and dose-response evaluation. IRIS information includes the reference dose for non-cancer health effects resulting from oral exposure, the reference concentration for non-cancer health effects resulting from inhalation exposure, and the carcinogen assessment for both oral and inhalation exposure. Combined with specific situational exposure assessment information, the summary health hazard information in IRIS may be used as a source in evaluating potential public health risks from environmental contaminants.

The IRIS Program

EPA's process for developing IRIS consists of: (1) An annual **Federal Register** notice announcing EPA's IRIS agenda and call for scientific information from the public on the selected chemical substances, (2) a search of the current literature, (3) development of health assessments and draft IRIS summaries, (4) peer review within EPA, (5) peer review outside EPA, (6) EPA consensus review and management approval, (7) preparation of final IRIS summaries and supporting documents, and (8) entry of summaries and supporting documents into the IRIS data base.

Assessments Completed in FY 2000 and Early FY 2001

The following assessments were completed and entered into IRIS in FY 2000 and early FY 2001. These assessments were listed in the **Federal Register** of January 12, 2000. All health endpoints, cancer and non-cancer, were assessed unless otherwise noted. Where information was available, both qualitative and quantitative assessments were developed.

| Name | CAS No. |
|---------------------------------------|------------|
| Benzene (oral carcinogenicity) | 71-43-2 |
| Chloral hydrate | 75-87-6 |
| Chlorine dioxide | 10049-04-4 |
| Chlorite (sodium salts) | 7758-19-2 |
| 1,3-Dichloropropene | 542-75-6 |
| Ethylene glycol monobutyl ether | 111-76-2 |
| Vinyl chloride | 75-01-4 |

Assessments in Progress—Completion Planned for FY 2001 or FY 2002

The following assessments are underway or generally complete, and are planned for entry into IRIS in FY 2001 or FY 2002. These assessments were announced in the January 12, 2000, or May 17, 2000, **Federal Registers**. All health endpoints, cancer and non-cancer, are being assessed unless otherwise noted. Pesticides

denoted with an asterisk (*) will have only oral reference dose and carcinogenicity endpoints assessed. For all endpoints assessed, both qualitative and quantitative assessments are being developed where information is available.

| Name | CAS No. |
|---|------------|
| Acetaldehyde | 75-07-0 |
| Acetone | 67-64-1 |
| Acrolein | 107-02-8 |
| Ammonium perchlorate (and associated salts) | 7790-98-9 |
| Antimony and compounds | 7440-36-0 |
| Arsenic, inorganic | 7440-38-2 |
| Benzene (non-cancer endpoints) | 71-43-2 |
| Benzo[a]pyrene | 50-32-8 |
| Bisphenol-A | 80-05-7 |
| Boron | 7440-42-8 |
| Bromate | 7758-01-2 |
| 1,3-Butadiene | 106-99-0 |
| Cadmium | 7440-43-9 |
| Carbon tetrachloride | 56-23-5 |
| Chloroethane | 75-00-3 |
| Chloroform | 67-66-3 |
| Chloroprene | 126-99-8 |
| Chlorothalonil* | 1897-45-6 |
| Copper | 7440-50-8 |
| Cyclohexane | 110-82-7 |
| Dichloroacetic acid | 79-43-6 |
| 1,2-Dichlorobenzene | 95-50-1 |
| 1,3-Dichlorobenzene | 541-73-1 |
| 1,4-Dichlorobenzene | 106-46-7 |
| 1,1-Dichloroethylene | 75-35-4 |
| Di(2-ethylhexyl)phthalate | 117-81-7 |
| Diflubenzuron | 35367-38-5 |
| Diesel emissions | [N.A.] |
| Ethylbenzene | 100-41-4 |
| Ethylene dibromide | 106-93-4 |
| Ethylene dichloride | 107-06-2 |
| Ethylene oxide | 75-21-8 |
| Formaldehyde | 50-00-0 |
| Glyphosate* | 1071-83-6 |
| Hexachlorobenzene | 118-74-1 |
| Hexachlorocyclopentadiene .. | 77-47-4 |
| Hydrogen sulfide | 7783-06-4 |
| Isopropanol | 67-63-0 |
| Methyl chloride | 74-87-3 |
| Methyl isobutyl ketone (MIBK) | 108-10-1 |
| Methyl mercury (noncancer endpts) | 22967-92-6 |
| Methyl tert-butyl ether (MTBE) | 1634-04-4 |
| Methylene chloride | 75-09-2 |
| Mirex | 2385-85-5 |
| Nickel (soluble salts) | [N.A.] |
| Nitrobenzene | 98-95-3 |
| Pendimethalin | 40487-42-1 |
| Phenol | 108-95-2 |
| Quinoline | 91-22-5 |
| Pebulate* | 1114-71-2 |
| Pentachlorophenol | 87-86-5 |
| Phosgene | 75-44-5 |
| Polychlorinated biphenyls (PCBs) (noncancer endpts) | 1336-36-3 |
| Refractory ceramic fibers | [N.A.] |
| Styrene | 100-42-5 |
| 2,3,7,8-TCDD (dioxin) | 1746-01-6 |
| Tetrachloroethylene ("perc") .. | 127-18-4 |
| Tetrahydrofuran | 109-99-9 |

| Name | CAS No. |
|--------------------------|------------|
| Toxaphene | 8001-35-2 |
| Trichlopyr | 55335-06-3 |
| Trichloroethylene | 79-01-6 |
| Uranium (natural) | 7440-61-1 |
| Vinyl acetate | 108-05-4 |
| Xylenes | 1330-20-7 |
| Zinc and compounds | 7440-66-6 |

The following assessments in progress have been delayed and are now expected in FY 2003:

| Name | CAS no. |
|---|------------|
| Hexahydro-1,3,5-trinitro-triazine ("RDX") | 121-82-4 |
| Silica (crystalline) | 14808-60-7 |

Completed IRIS summaries and support documents for the substances listed above will be provided on the IRIS web site at www.epa.gov/iris. This publicly-available web site is EPA's primary location for IRIS documents. In addition, external peer review drafts of IRIS documents can be found via the "What's New" page of the IRIS web site, as discussed in the January 12, 2000 **Federal Register** notice. Interested parties should check the "What's New" page frequently for the availability of these drafts.

In addition to the assessment of the individual polycyclic aromatic hydrocarbon (PAH) benzo[a]pyrene, EPA conducted a literature review and will be sponsoring a workshop on approaches to assessing the health effects of a larger set of PAHs. As mentioned in the January 12, 2000 **Federal Register**, additional health assessments on this class of chemicals will be considered for initiation in FY 2001.

Assessment Development Input From External Parties

In addition to the opportunity for public input via the IRIS Submission Desk described above, EPA is testing ways to involve the public in the development of health assessment documents that are submitted to EPA by external parties as supporting documents for IRIS. This was described in the January 12, 2000, **Federal Register** notice. Considerable expertise in assessing health risks exists outside of EPA, such as in other government agencies, industries, universities, professional organizations, and other non-governmental organizations. Cooperation between EPA and external parties in the assessment development process can improve the quality of IRIS supporting documents by providing greater scientific input to EPA's assessments.

EPA announced in the January 12, 2000 and May 17, 2000, **Federal Register** notices that external parties are developing several assessment documents with dialogue and feedback from EPA. Currently, external party assessments are addressing ethylene oxide, ethylbenzene, styrene, toxaphene, hexachlorobenzene, and hexahydro-1,3,5-trinitro-triazine ("RDX"). When complete, EPA will consider these documents, in whole or in part, as possible sources or supporting documents for IRIS assessments. In FY 2001, EPA will continue to evaluate its experience with these externally-generated assessments in terms of process efficiency and quality of the documents produced. If the experience is positive, EPA will consider inviting similar involvement on future health assessments in the IRIS program.

Information Requested on New Assessments for FY 2001

EPA will continue building and updating the IRIS data base. The Agency recognizes that many of the assessments on IRIS need updating to incorporate new scientific information and methodologies. Further, many additional substances are candidates for adding to IRIS. However, due to limited resources in the Agency to address the spectrum of needs, EPA developed a list of priority substances for attention beginning in FY 2001. The following list of substances are priorities for IRIS due to one or more reasons: (1) Agency statutory, regulatory, or program implementation need; (2) new scientific information or methodology is available that might significantly change current IRIS information; (3) interest to other levels of government or the public; (4) most of the scientific assessment work has been completed while meeting other Agency requirements, and only a modest additional effort will be needed to complete the review and documentation for IRIS.

The following IRIS health assessments have recently begun or will be started in FY 2001, with completion expected in FY 2003. *It is for these substances that the Agency is primarily requesting information from the public for consideration in the assessments.* Unless otherwise noted, noncancer and cancer endpoints will be assessed for each substance. Pesticides denoted with an asterisk (*) will have only oral reference dose and carcinogenicity endpoints assessed. For all endpoints assessed, both qualitative and quantitative assessments are being developed where information is available.

| Name | CAS No. |
|--|------------|
| Acrylamide | 79-06-1 |
| Alachlor* | 15972-60-8 |
| Asbestos | 1332-21-4 |
| Azinphos Methyl* | 86-50-0 |
| Bromoxynil* | 1689-84-5 |
| Chlorpyrifos* | 2921-88-2 |
| Diazinon* | 333-41-5 |
| Ethanol | 64-17-5 |
| Ethion* | 563-12-2 |
| Hexachlorobutadiene | 87-68-3 |
| Methanol | 67-56-1 |
| Methidathion* | 950-37-8 |
| Methyl Parathion* | 298-00-0 |
| Metolachlor* | 51218-45-2 |
| Polycyclic Aromatic Hydrocarbons (PAHs). | [Various] |
| Toluene | 108-88-3 |
| Triallate* | 2303-17-5 |

Submission of Information

As in previous **Federal Registers** announcing the annual IRIS agenda, EPA is soliciting public involvement in new assessments starting in FY 2001. While EPA conducts a thorough literature search for each chemical substance, there may be other articles or unpublished studies we are not aware of. We would greatly appreciate receiving scientific information from the public during the information gathering stage for the list of "new assessments" listed above. Interested persons should provide scientific comments, analyses, studies, and other pertinent scientific information. The most useful documents for EPA are unpublished studies or other primary technical sources that we may not otherwise obtain through open literature searches. Also note that if you have submitted certain information previously then there is no need to resubmit that information. Information from the public is being solicited for 60 days via this notice.

Procedures for Submission

Similar to the process described in the January 12, 2000, **Federal Register**, submissions will be handled in a three-step process:

1. *Submission Inventory*: First, you should simply provide a list within 60 days of this notice briefly identifying all the information (reports, papers, articles, etc.) you wish to submit. The list should specify by name and CASRN (Chemical Abstract Service Registry Number) the chemical substance(s) to which the information pertains, state the type of assessment that is being addressed (e.g., carcinogenicity), and describe briefly the information to be submitted for consideration. Where possible, documents should be listed in scientific citation format, that is, author(s), title, journal, and date. Your

cover letter should state that the correspondence is an IRIS submission, describe in general terms the purpose of the submission, and include names, addresses, and telephone numbers of persons to contact for additional information. Mail two copies of the submission to the IRIS Submission Desk, c/o Courtney R. Johnson, National Center for Environmental Assessment (8601D), U.S. Environmental Protection Agency, Washington, DC 20460.

Alternatively, you may submit the submission inventory and cover letter electronically to IRIS.desk@epa.gov. Electronic information must be submitted in WordPerfect format or as an ASCII file. Information will also be accepted on 3.5" floppy disks. All information in electronic form must be identified as an IRIS submission.

2. *EPA Replies to Submission Inventory*: In the second step, EPA will compare the submission inventory to existing files and identify the information that should be submitted. This step will help prevent an influx of duplicative information. You will receive notification requesting full submission of the selected material.

3. *Full Submission of Selected Material*: In the third step, you should send in the information indicated by EPA within 30 days of EPA's reply. Prompt response to EPA will ensure that your material can be considered in the assessment in a timely fashion. Submittals should include a cover letter addressing all of the points in item 1 above. In addition, when you submit results of new health effects studies concerning existing substances on IRIS, you should include a specific explanation of how and why the study results could change the information in IRIS.

Please send two copies, at least one of which should be unbound, to the IRIS Submission Desk, as described in Step 1. The IRIS Submission Desk will acknowledge receipt of your information.

Confidential Business Information (CBI) should not be submitted to the IRIS Submission Desk. CBI must be submitted to the appropriate EPA Office via established procedures for submission of CBI (see 40 CFR, Part 2, Subpart B). If you believe that a CBI submission contains information with implications for IRIS, please note that in the cover letter accompanying the submission to the appropriate office.

You may also request to augment your submission with a scientific briefing to EPA staff. Such requests should be made directly to Amy Mills, IRIS Program Manager (see **FOR FURTHER INFORMATION**).

Dated: January 18, 2001.

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 01-2175 Filed 2-21-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6947-3]

Meeting of the Ozone Transport Commission for the Northeast United States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing the 2001 Winter Meeting of the Ozone Transport Commission. This meeting is for the Ozone Transport Commission to deal with appropriate matters within the Ozone Transport Region in the Northeast and Mid-Atlantic States, as provided for under the Clean Air Act Amendments of 1990. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended.

DATES: The meeting will be held on March 6, 2001 starting at 9 a.m. (est).

ADDRESSES: The Engineers Club at the Garrett-Jacobs Mansion, 11 West Mount Vernon Place, Baltimore, Maryland 21201; (410) 539-6914.

FOR FURTHER INFORMATION CONTACT: Judith M. Katz, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; (215) 814-2900.

For Documents and Press Inquiries Contact: Allison R. M. Mitchell, Ozone Transport Commission, 444 North Capitol Street NW., Suite 638, Washington, DC 20001; (202) 508-3840; e-mail: ozone@sso.org; website: <http://www.sso.org/otc>.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at section 184 provisions for the "Control of Interstate Ozone Air Pollution." Section 184(a) establishes an "Ozone Transport Region" (OTR) comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia.

The Assistant Administrator for Air and Radiation of the Environmental Protection Agency convened the first meeting of the commission in New York

City on May 7, 1991. The purpose of the Ozone Transport Commission is to deal with ground level ozone formation, transport, and control within the OTR.

The purpose of this notice is to announce that this Commission will meet on March 6, 2001. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of the Ozone Transport Commission are not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits.

Type of Meeting: Open.

Agenda: Copies of the final agenda will be available from Allison R. M. Mitchell of the OTC office (202) 508-3840 (by e-mail: ozone@sso.org or via our website at <http://www.sso.org/otc>) on Tuesday, February 27, 2001. The purpose of this meeting is to review air quality needs within the Northeast and Mid-Atlantic States, including reduction of motor vehicle and stationary source air pollution. The OTC is also expected to address issues related to the transport of ozone into its region, including actions by EPA under sections 110 of the Clean Air Act, and to discuss potential regional emission control measures.

Dated: February 14, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.
[FR Doc. 01-4400 Filed 2-21-01; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK

[Public Notice 43]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB Review; Comment Request; Emergency Clearance.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995, the Export-Import Bank of the United States (Ex-Im Bank) has submitted to the Office of Management and Budget (OMB) a request to review and approve two new information collections described below.

DATES: Comments due on or before March 16, 2001.

SUPPLEMENTARY INFORMATION: This notice is soliciting comments from

members of the public concerning the proposed collection of information to (1) evaluate whether the proposed collection is necessary for the paper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of collection of information on those who are to respond; including through the use of appropriated automated collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

OMB Number: Not yet assigned.

Titles and form numbers: Export-Import Bank of the U.S. Foreign Content Report EIB 01-02 and Export-Import Bank of the U.S. Cause Report EIB 01-02-A.

Type of Review: New collection.

Need and Use: The information requested will create less of a burden on our exporters who currently must certify foreign content for each shipment of goods. With the use of the new forms, Ex-Im Bank will now be documenting the amount of foreign content in transactions through up-front reporting and back-end verification.

Affected Public: Business and other for-profit/not-for-profit institutions, Farms.

Respondents: Entities involved in the export of U.S. goods and services, including exporters, banks, and other non-financial lending institutions that act as facilitators.

Estimated annual respondents: 600.

Estimated time per respondent: 2 hours.

Estimated annual burden: 1,200 hours.

Frequency of response: On occasion.

Copies of these submissions may be obtained from Carlista D. Robinson, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565-3351. Comments and recommendations concerning the submissions should be sent to Mr. David Rostker, Office of Management and Budget, Office of Information and Regulatory Affairs, NEOB, Room 10202, Washington, DC 20503.

Carlista D. Robinson,
Agency Liaison Officer.

[FR Doc. 01-4429 Filed 2-21-01; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

February 8, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 26, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202-418-0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060-0182.

Title: Section 73.1620, Program Tests.
Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit and not-for-profit institutions.

Number of Respondents: 1,416.

Estimated Time Per Response: 1-5 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 1,480 hours.

Total Annual Cost: N/A.

Needs and Uses: The notification to the FCC regarding program tests (Section 73.1620(a)) alerts FCC that station construction is complete and the station is ready to broadcast program material. The notification to UHF translator stations (Section 73.1620(f)) alerts the station that the potential for interference exists. The report to FCC regarding deviations (Section 73.1620(g)) ensures that comparative promises relating to services are not inflated.

OMB Control No.: 3060-0621.

Title: Rules and Requirements for C & F Block Broadband PCS Licenses.

Form No.: FCC Form 175.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, businesses or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 3,000.

Estimated Time Per Response: .50 to 20 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Total Annual Burden: 14,044 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission's rules require applicants to file information so that the Commission can determine whether the applicant is legally, technically and financially qualified to be licensed and to determine whether the applicant(s) claiming different eligibility statuses are entitled to certain benefits.

OMB Control No.: 3060-0767.

Title: Auction Forms and License Transfer Disclosures—Supplement for the Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking in CC Docket No. 92-297.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, businesses or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 22,000.

Estimated Time Per Response: .25-3.75 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Total Annual Burden: 762,000 hours.

Total Annual Cost: \$45,333,000.

Needs and Uses: The Commission's rules require small business applicants to submit ownership information and gross revenue calculations, and all applicants must submit joint bidding agreements. In the case of default, the FCC retains the discretion to re-auction such licenses. Finally, licensees transferring licenses within 3 years are required to maintain a file of all documents and contracts pertaining to the transfer. Certification is required for entities dropping out of auction to secure certain ownership interests in participants.

OMB Control No.: 3060-0600.

Title: Application to Participate in a FCC Auction.

Form No.: FCC Form 175.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, businesses or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 11,000.

Estimated Time Per Response: .25 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 2,750 hours.

Total Annual Cost: N/A.

Needs and Uses: This information collection allows the FCC to ascertain whether or not applicants for spectrum have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to a Federal agency. The information will allow the Commission to determine the amount of the up-front payment to be paid by each applicant and will help ensure that auctions are conducted fairly and efficiently, thereby speeding the flow of payments to the U.S. Treasury and accelerating the provision of wireless service to the public.

OMB Control Number: 3060-0261.

Title: Transmitter Measurements, 47 CFR Section 90.215.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; Not-for-profit institutions; Individuals or households; and State, local, or tribal governments.

Number of Respondents: 20,075.

Estimated Time Per Response: 2 mins. (0.033 hrs.).

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 663 hours.

Total Annual Costs: None.

Needs and Uses: This information collection, 47 CFR section 90.251, requires licensees to measure carrier frequency, output power, and

modulation of each transmitter authorized to operate with power in excess of two watts when the transmitter is initially installed and when any changes are made that would likely affect such parameters. This information, which is required to be maintained in the station's records, helps to assure proper operation of transmitters—that the equipment is operating within prescribed tolerances, thereby reducing instances of interference to other users.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01-4319 Filed 2-21-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, February 27, 2001 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION:

Mr. Ron Harris, Press Officer,
Telephone: (202) 694-1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 01-4555 Filed 2-20-01; 3:16 pm]

BILLING CODE 6712-01-M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting; Cancellation

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 66 FR 10503, February 15, 2001.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 a.m., Wednesday, February 28, 2001.

CANCELLATION OF THE MEETING: Notice is hereby given of the cancellation of the Board of Directors meeting scheduled for February 28, 2001.

FOR FURTHER INFORMATION CONTACT:

Elaine L. Baker, Secretary to the Board,
(202) 408-2837.

James L. Bothwell,

Managing Director.

[FR Doc. 01-4476 Filed 2-20-01; 10:23 am]

BILLING CODE 6725-01-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.: 011547-013.

Title: Israel Discussion Agreement.

Parties: Farrell Lines, Inc., Zim Israel Navigation Co., Ltd., China Ocean Shipping Company, Mediterranean Shipping Company S.A., A.P. Moller-Maersk Sealand, P&O Nedlloyd Ltd., Turkon Container Transportation and Shipping, Inc.

Synopsis: The amendment changes the name of the agreement from the Israel Discussion Agreement to the Eastern Mediterranean Discussion Agreement; adds Egypt and Turkey to the geographic scope; deletes the U.S. Great Lakes from the geographic scope; deletes the Israel Trade Conference as a party; and restates the agreement.

Agreement No.: 011675-004.

Title: SEN/EMC Slot Charter Agreement.

Parties: Senator Lines GmbH, Evergreen Marine Corp. (Taiwan) Ltd.

Synopsis: The agreement revises the slot allocations and the minimum notice period for termination.

Agreement No.: 011737-001.

Title: The MCA Agreement.

Parties: Crowley Liner Services, Inc., Cho Yang Shipping Co., Ltd., CMA CGM S.A., Compania Chilena De Navegacion Interoceanica S.A., Mexican Line Limited, Lykes Lines Limited, LLC, Tecmarine Lines, Inc., Tropical Shipping & Construction Co., Ltd., Allianca Navegacao E. Logistica Ltda.

Synopsis: The proposed amendment adds Allianca Navegacao E. Logistica Ltda. as a party to the agreement. The parties request expedited review.

Agreement No.: 011743-001.

Title: Global Transportation Network Agreement.

Parties: American President Lines, Ltd., APL Co. PTE Ltd., CP Ship Holding, Inc., Crowley Marine Corporation, Hanjin Shipping Co., Ltd., Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Senator Lines GmbH, Wan Hai Lines, Ltd., Yangming Marine Transport Corp., Zim Israel Navigation Company.

Synopsis: The proposed agreement modification adds Wan Hai Lines as a participating carrier in the agreement. The parties request expedited review.

Agreement No.: 011747.

Title: K-Line/HJS All Water Pendulum (Asia-USEC) Slot Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd., Hanjin Shipping Co., Ltd.

Synopsis: The slot charter agreement permits Hanjin to charter space to Kawasaki in the trade between and ports in Asia and points in the Eastern United States via U.S. West Coast ports.

Agreement No.: 011748.

Title: Lauritzen/Hoegh Agreement.

Parties: J. Lauritzen A/S, Leif Hoegh & Co. ASA.

Synopsis: The agreement authorizes the parties, along with specified subsidiaries, to enter into certain arrangements that are ancillary to the purchase of Cool Carriers by Lauritzen. Foremost among the arrangements is a non-compete provision. The agreement will remain in effect until January 1, 2004.

Agreement No.: 011749.

Title: YMUK/HJS Slot Allocation and Sailing Agreement.

Parties: Hanjin Shipping Co., Ltd., Yangming (UK) Ltd.

Synopsis: The proposed agreement allows each party to purchase 150 TEUs of space on the other party's vessels in the trade between the U.S. Pacific Coast and Asia.

Agreement No.: 201115.

Title: NY-NJ/Chilean Line Containerized Banana Volume Incentive Agreement.

Parties: Port Authority of New York and New Jersey CSAV—Chilean Line Inc.

Synopsis: The proposed agreement concerns the terms and conditions of a banana import incentive program. The agreement covers program shipments moved by CSAV during the period June 1, 1997 through May 31, 1999.

By Order of the Federal Maritime Commission.

Dated: February 16, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01-4422 Filed 2-21-01; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION**Ocean Transportation Intermediary License Applicant**

Notice is hereby given that the following applicant has filed with the Federal Maritime Commission an application for license as Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicant should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant: Bianca R. Lopez, 227 W. Grand Avenue, El Segundo, CA 90245, Sole Proprietor.

Dated: February 16, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01-4421 Filed 2-21-01; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL RESERVE SYSTEM**Federal Open Market Committee; Domestic Policy Directive of December 19, 2000**

In accordance with § 71.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 19, 2000.¹

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the federal funds rate to an average of around 6-1/2 percent.

¹ Copies of the Minutes of the Federal Open Market Committee meeting of December 19, 2000, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

By order of the Federal Open Market Committee, February 2, 2001.

Donald L. Kohn,

Secretary, Federal Open Market Committee.
[FR Doc. 01-4338 Field 2-21-01; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of January 3, 2001

In accordance with § 71.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on January 3, 2001.¹

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with a reduction of the federal funds rate to an average of around 6 percent.

By order of the Federal Open Market Committee, February 2, 2001.

Donald L. Kohn,

Secretary, Federal Open Market Committee.
[FR Doc. 01-4339 Field 2-21-01; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality (AHRQ)

Statement of Organization, Functions, and Delegations of Authority

Part E, Chapter E (Agency for Healthcare Research and Quality), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (61 FR 15955-58, April 10, 1996, most recently amended at 66 FR 7653 on January 24, 2001) is further amended as follows:

Under *Section E-20. Functions:*

A. Within the statement for the *Division of Human Resource Management (EAA6):*

1. Delete "and organization" in the first sentence;
2. Insert "and" before (3); and
3. Delete (4) and (5).

B. Delete the title and statement for the *Division of Research Synthesis and Translation (EAF4);* and

C. Delete the title and statement for the *Division of User Liaison (EAF5)* and replace with the following:

Division of User Liaison and Research Translation (EAF5). Facilitates the synthesis, translation, and dissemination of existing research findings, data and activities—particularly in research areas to which AHRQ has made substantial contributions—to selected AHRQ stakeholders. Specifically: (1) Coordinates and supports development of speeches and other presentations made by the AHRQ Director; (2) develops research syntheses focused on issues of importance to health systems administrators, large health care purchasers, State and local health policymakers, and others interested in health services research; (3) plans and conducts workshops and seminars to provide research findings and related information to State and local health policymakers to allow them to make better informed health care policy decisions; (4) drafts articles, briefing sheets, and other analytic documents that synthesize and analyze particular topics and issues in health services research or pertaining to agency activities; (5) coordinates and supports ongoing improvement and maintenance of the Agency's research database system; (6) maintains liaison with State and local government organizations, public policy organizations, and with the research community and receives and appropriately transmits information which may impact the Agency's research plan and priority setting process; and (7) develops and implements mechanisms to identify and contact potential users of research findings and related information.

These changes are effective upon date of signature.

Dated: February 12, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01-4375 Filed 2-21-01; 8:45 am]

BILLING CODE 4160-90-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Competitive Supplemental Funds For Comprehensive STD Prevention Systems: Monitoring STD Prevalence and Reproductive Health Services For Adolescent Women in Special Settings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Competitive Supplemental Funds For Comprehensive STD Prevention Systems: Monitoring STD Prevalence and Reproductive Health Services For Adolescent Women in Special Settings, Program Announcement #99000-K, meeting.

Times and Date: 9 a.m.–9:30 a.m., March 8, 2001 (Open).

9:30 a.m.–4:30 p.m., March 8, 2001 (Closed).

Place: National Center for HIV, STD, and TB Prevention, CDC, 8 Corporate Square Blvd, Conference Room 1A, Atlanta, Georgia 30329.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Public Law 92-463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement #99000-K.

Contact Person for More Information: Elizabeth A. Wolfe, Prevention Support Office, National Center for HIV, STD, and TB Prevention, CDC, Corporate Square Office Park, 8 Corporate Square Boulevard, M/S E07, Atlanta, Georgia 30329, telephone 404/639-8025.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 14, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention CDC.

[FR Doc. 01-4364 Filed 2-21-01; 8:45 am]

BILLING CODE 4163-18-P

¹ Copies of the Minutes of the Federal Open Market Committee meeting of January 3, 2001, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D-0058]

Guidance on Applying the Structure/Function Rule; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is requesting comments on the types of information that should be included in a guidance on applying the regulations on statements made for dietary supplements concerning the effect of the product on the structure or function of the body. This action is being taken to assist the agency in preparing a guidance that will be optimally useful for industry and other interested persons.

DATES: Submit written comments on the topics for the proposed guidance by May 23, 2001.

ADDRESSES: Submit written comments on the topics for the proposed guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Copies of this document are available on the Internet at <http://vm.cfsan.fda.gov/~dms/ds-ind.html>.

FOR FURTHER INFORMATION CONTACT: Rose E. Cunningham, Center for Drug Evaluation and Research (HFD-6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5468.

SUPPLEMENTARY INFORMATION:

I. Background

The Dietary Supplement Health and Education Act (DSHEA) authorizes manufacturers of dietary supplements to claim effects on the "structure or function" of the body, but not to make claims to mitigate, treat, prevent, cure, or diagnose disease (21 U.S.C. 343(r)(6)). To explain how this part of DSHEA was to be implemented, FDA published the "structure/function rule" on January 6, 2000 (65 FR 1000) (§ 101.93(f) and (g) (21 CFR 101.93(f) and (g))). This rule distinguishes between disease claims, which create a requirement that evidence of safety and efficacy be presented to the agency before marketing, and structure/function claims, which do not create such a requirement. In the preamble to that final rule, FDA stated that it would publish guidance on applying the rule.

FDA is seeking public comment on the topics that should be included in the guidance.

II. Description of the Guidance

In the preamble to the structure/function rule, FDA stated that it would provide, through guidance, examples of labeling claims that would and would not be considered disease claims under the rule, including examples of product names. FDA also stated that it would issue guidance, if necessary, on the citation of a publication or a reference implying the treatment or prevention of a disease (§ 101.93(g)(2)(iv)(C)). The agency invites comments on whether guidance on this topic is necessary. Because issues pertaining to the substantiation of structure/function claims are outside the scope of the rule (see 65 FR 1000 at 1032), the agency does not plan to address such issues in the guidance that is the subject of this notice. However, the agency does plan to issue a separate guidance on the substantiation of claims.

III. Request for Comments

FDA invites all interested parties to comment on the topics to be included in the guidance, to suggest additional topics for inclusion in the guidance, and to address any other issue appropriate for this guidance. Interested persons may submit to the Dockets Management Branch (address above) written comments by May 23, 2001. 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: February 15, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01-4374 Filed 2-21-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D-1315]

Guidance for Industry on How to Use E-Mail to Submit Information to the Center for Veterinary Medicine; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance for industry (#108) entitled "How to Use E-Mail to Submit Information to the Center for Veterinary Medicine" (CVM). This guidance provides guidelines on how to submit information to CVM as an e-mail attachment by Internet. These electronic submissions are part of CVM's ongoing initiative to provide a method for paperless submissions. This guidance implements provisions of the Government Paperwork Elimination Act (GPEA).

DATES: Submit written comments at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Communications Staff (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Janis R. Messenheimer, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-7578, e-mail: jmessenh@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 29, 2000 (65 FR 40109), FDA published the notice of availability of the draft guidance entitled "How to Use E-Mail to Submit Information to the Center for Veterinary Medicine" giving interested persons until August 28, 2000, to submit comments. We received no comments.

In the **Federal Register** of March 20, 1997 (62 FR 13430), FDA published the electronic records; electronic signatures regulation. This rule in part 11 (21 CFR part 11) provides for the voluntary submission of parts, or all, of regulatory records in electronic format without an accompanying paper copy. This rule also established public docket number 97S-0251 to provide a permanent location for a list of the documents or parts of documents that are acceptable for submission in electronic form without paper records and the agency units to which such submissions may be made. CVM will identify in this public docket the types of documents which may be submitted in electronic form. In

addition, CVM will identify those documents in guidances or regulations. This docket is accessible on the Internet at <http://www.fda.gov/ohrms/dockets/dockets/92s0251/92s0251.htm>. The GPEA of 1998 (Public Law 105-277) requires Federal agencies, by October 21, 2003, to provide: (1) For the option of the electronic maintenance, submission, or disclosure of information, if practicable, as a substitute for paper; and (2) for the use and acceptance of electronic signatures, when practicable.

CVM accepts certain types of submissions by e-mail with no requirement for a paper copy. These types of documents are listed in public docket 97S-0251 as required by § 11.2. CVM's ability to receive and process information submitted electronically is limited by its current information technology capabilities and the requirements of the electronic records; electronic signatures regulation. This guidance outlines general standards that should be used for the successful electronic submission of any information by e-mail.

II. Significance of Guidance

This Level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). The guidance represents the agency's current thinking about using e-mail to submit information electronically. The document does not create or confer any rights for or on any person and will not operate to bind FDA or the public. Alternative methods may be used as long as they satisfy the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

In the notice announcing the availability of the draft version of this guidance, FDA published notice of the proposed collection of information related to the guidance. The **Federal Register** notice also requested comments on the burden estimates for the guidance documents. No comments were received on the estimated annual reporting burden. The annual reporting burden estimate of 140 hours therefore remains unchanged. In the **Federal Register** of September 21, 2000 (65 FR 57192), the agency announced that it was submitting the collection of information to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The information collection provisions related to this guidance document have been approved under OMB control number 0910-0453. This approval

expires November 30, 2003. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

IV. Electronic Access

Persons with access to the Internet may obtain the document at <http://www.fda.gov/cvm>.

V. Comments

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to this guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). 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. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 14, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01-4313 Filed 2-21-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D-1314]

Guidance for Industry on How to Use E-Mail to Submit a Notice of Intent to Slaughter for Human Food Purposes; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance for industry (#87) entitled "How to Use E-Mail to Submit a Notice of Intent to Slaughter for Human Food Purposes." The purpose of this document is to provide guidance to new animal drug sponsors (sponsors) on how to submit an electronic notice of intent to slaughter

for human food purposes (slaughter notices) to the Center for Veterinary Medicine (CVM) and the U.S. Department of Agriculture (USDA). This electronic submission is part of CVM's ongoing initiative to provide a method for paperless submissions. This guidance implements provisions of the Government Paperwork Elimination Act (GPEA).

DATES: Submit written comments at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Communications Staff (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Janis R. Messenheimer, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-7578, e-mail: jmessenh@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 29, 2000 (65 FR 40106), FDA published the notice of availability of the draft guidance entitled "How to Use E-Mail to Submit a Notice of Intent to Slaughter for Human Food Purposes." Interested persons were given until August 28, 2000, to submit comments. FDA received no comments.

In the **Federal Register** of March 20, 1997 (62 FR 13430), FDA published the electronic records; electronic signatures regulation. This regulation (21 CFR part 11) provides for the voluntary submission of parts or all of regulatory records in electronic format without an accompanying paper copy. This rule also established public docket number 92N-0251 to provide a permanent location for a list of the documents or parts of documents that are acceptable for submission in electronic form without paper records and the agency units to which such submissions may be made. CVM will identify in this public docket the types of documents which may be submitted in electronic form, as an e-mail attachment by Internet, as those documents are identified in final guidance or regulations. This docket is accessible on the Internet at <http://>

www.fda.gov/ohrms/dockets/dockets/92s0251/92s0251.htm.

The electronic submission of slaughter notices is part of CVM's ongoing initiative to provide a method for paperless submissions. The final guidance implements provisions of the GPEA. The GPEA of 1998 (Public Law 105-277) requires Federal agencies, by October 21, 2003, to provide: (1) For the option of the electronic maintenance, submission, or disclosure of information, if practicable, as a substitute for paper; and (2) for the use and acceptance of electronic signatures, when practicable.

Section 512(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(b)(j)) gives FDA the authority to issue regulations setting out conditions for marketing animals treated with investigational new animal drugs for food use. Under this authority, FDA issued § 511.1(b)(4) (21 CFR 511.1(b)(4)), which requires that sponsors obtain authorization to slaughter these animals for use as human food. Under § 511.1(b)(5), CVM issues to sponsors a slaughter authorization letter that sets the terms under which the animals treated with investigational new animal drugs may be slaughtered. USDA also monitors the slaughter of animals treated with investigational new animal drugs under the authority of the Meat Inspection Act (21 U.S.C. 601-95). To assist CVM and USDA with this monitoring, the slaughter authorization states that sponsors must submit slaughter notices each time such animals are to be slaughtered unless CVM waives the notice in the authorization letter. Currently, slaughter notices are submitted to CVM on paper. This guidance will give sponsors the option to submit a slaughter notice as an e-mail attachment to CVM and USDA by the Internet.

Before submitting slaughter notices by e-mail, sponsors should first register and follow the instructions in the guidance for industry (#108) entitled "How to Use E-mail to Submit Information to the Center for Veterinary Medicine."

II. Significance of Guidance

This Level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). The guidance represents the agency's current thinking about using e-mail to submit a slaughter notice. This guidance does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach

satisfies the requirement of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

In the notice announcing the availability of the draft version of this guidance, FDA published a notice of the proposed collection of information related to the guidance. The **Federal Register** notice also requested comments on the burden estimates for the guidance documents. No comments were received on the estimated annual reporting burden. The annual reporting burden estimate of 27 hours therefore remains unchanged. In the **Federal Register** of September 21, 2000 (65 FR 57192), the agency announced that it was submitting the collection of information to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The information collection provisions related to this guidance document have been approved under OMB control number 0910-0450. This approval expires November 30, 2003. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

IV. Electronic Access

Persons with access to the Internet may obtain the document at <http://www.fda.gov/cvm>.

V. Comments

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to this guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). 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. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 14, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.
[FR Doc. 01-4419 Filed 2-21-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D-0005]

Draft Guidance for Industry on Labeling Over-the-Counter Human Drug Products; Updating Labeling in ANDA's; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Labeling Over-the-Counter Human Drug Products; Updating Labeling in ANDA's." This draft guidance is intended to assist manufacturers, packers, and distributors of over-the-counter (OTC) drug products marketed under abbreviated new drug applications (ANDA's) and manufacturers of reference listed drugs (RLD's) to implement the agency's regulation on standardized content and format requirements for the labeling of OTC drug products.

DATES: Submit written comments on the draft guidance for industry by April 23, 2001.

ADDRESSES: Copies of the draft guidance for industry are available on the Internet at <http://www.fda.gov/cder/guidance/index.htm>. Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD-210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your request. Submit written comments on the draft guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD-560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-2222.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled "Labeling OTC Human Drug Products; Updating

Labeling in ANDA's." This is one of several guidances the agency is developing to help manufacturers, packers, and distributors implement the recently issued final rule establishing standardized content and format requirements for the labeling of all OTC drug products. Once finalized, these guidances will supersede all other statements, feedback, and correspondence provided by the agency on these matters since the issuance of the final rule.

In the **Federal Register** of March 17, 1999 (64 FR 13254), FDA published a final rule establishing standardized content and format requirements for the labeling of OTC drug products. This rule is intended to standardize labeling for all OTC drug products so consumers can easily read and understand OTC drug product labeling and use these products safely and effectively.

The regulation for this new standardized labeling requires manufacturers to present OTC drug labeling information in a prescribed order and format. This new format will require revision of all existing labeling.

Following issuance of the final rule, the agency received several inquiries from manufacturers of generic OTC drug products seeking guidance on whether they may convert products to the new labeling format before the applicable innovator (or RLD) product revises its labeling. This guidance addresses those inquiries.

Generally, the agency believes manufacturers of generic OTC drug products (i.e., products marketed under ANDA's) need not wait to implement the new labeling format until after the RLD holder has submitted its labeling. This guidance is intended to facilitate the updating of labeling in ANDA's to meet the new OTC drug products format requirement. Accordingly, the agency has developed labeling examples as guidance for manufacturers to follow. Two such labeling examples are attached to the draft guidance. The additional labeling examples that the agency proposes to develop will be made available for review in this docket and at the Internet site referenced in this draft guidance before the close of the comment period.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). The draft guidance represents the agency's current thinking on updating labeling in ANDA's consistent with the new OTC drug products standardized labeling content and format. It does not create or confer any rights for or on any person and does not operate to bind FDA or the

public. An alternative approach may be used if such an approach satisfies the requirements of the applicable statutes and regulations.

Interested persons may, on or before April 23, 2001, submit written comments on the draft guidance to the Dockets Management Branch (address above). 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. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 8, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01-4312 Filed 2-21-01; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D-0059]

Draft Guidance for Industry on Separate Marketing Applications and Definition of Clinical Data for Purposes of Assessing User Fees; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Separate Marketing Applications and Clinical Data for Purposes of Assessing User Fees." This draft guidance revises a procedural guidance entitled "Attachment E—Interim Guidance: Separate Marketing Applications and Clinical Data for Purposes of Assessing User Fees Under the User Fee Act of 1992" issued in July 1993 (the July 1993 interim guidance), which provided guidance on the agency's policy on "bundling" applications and a definition of "clinical data" for user fee purposes. This draft guidance deletes two appendices in the July 1993 interim guidance and directs readers to the agency publication entitled "Approved Drug Products with Therapeutic Equivalence Evaluations" (the Orange Book) for a listing of routes of administration and dosage forms.

DATES: Submit written comments on this draft guidance by March 26, 2001.

General comments are welcome at any time.

ADDRESSES: Copies of this draft guidance for industry are available on the Internet at <http://www.fda.gov/cder/guidance> and <http://www.fda.gov/cder/pdufa/default.htm>. Submit written requests for single copies of the draft guidance entitled "Separate Marketing Applications and Clinical Data for Purposes of Assessing User Fees" to the Drug Information Branch (HFD-210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or to the Office of Communication, Training, and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. The document may also be obtained by fax by calling the FAX Information System at 1-888-CBER-FAX or 301-827-3844. Send one self-addressed adhesive label to assist the office in processing your request. Submit written comments on the draft guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Michael D. Jones, Center for Drug Evaluation and Research (HFD-5), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-2041, FAX 301-827-5562, or

Carla A. Vincent, Center for Biologics Evaluation and Research (HFM-110), 1401 Rockville Pike, Rockville, MD 20852, 301-827-3503, FAX 301-827-2875.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled "Separate Marketing Applications and Clinical Data for Purposes of Assessing User Fees." This draft guidance revises the July 1993 interim guidance.

The agency is deleting from the 1993 interim guidance the list of routes of administration in appendix A and dosage forms in appendix B.

FDA is deleting appendices A and B so that the guidance reflects current agency policy, as developed over the past few years (see Docket Nos. 93P-0421, 95P-0262, 96P-0317, and 96P-0459). Among other things, in the review of abbreviated new drug applications, the Center for Drug Evaluation and Research generally has not considered different mechanisms of release, particularly for suppository, delayed, and controlled release products, as different dosage forms.

Instead, the draft guidance refers readers to the Orange Book appendix C, "Uniform Terms." Although the Orange Book appendix C is not binding on the agency or industry, it does serve as informal guidance on what the "same" or "identical" dosage form or route of administration would be.

The draft guidance also updates the July 1993 interim guidance for consistency with the agency's good guidance practices (GGP's) regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). The agency anticipates making additional revisions to this procedural guidance in the future.

This Level 1 draft guidance is being issued consistent with FDA's GGP's. The draft guidance represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations. The draft guidance will be updated as appropriate.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft guidance at any time. 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. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 13, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01-4311 Filed 2-21-01; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4655-N-03]

Notice of Proposed Information Collection: Comment Request; Management Reviews of Multifamily Projects

AGENCY: Office of the Assistance Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork

Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 23, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Building, Room 8202, Washington, DC 20410, telephone (202) 708-5221 (this is not a toll-free number) for copies of the proposed forms and other available information.

FOR FURTHER INFORMATION CONTACT: Beverly J. Miller, Director, Policy and Participation Standards Division, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone number (202) 708-3000, (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Management Reviews of Multifamily Projects.

OMB Control Number, if applicable: 2502-0178.

Description of the need for the information and proposed use: The form is completed by HUD staff and Contractor Administrators gathering and recording information during an on-site review of the project operations.

Agency form numbers, if applicable: Form HUD-9834.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents for HUD staff and Contract Administrators is 1,120; the frequency of response is 1, estimated time to prepare form is approximately 4 hours; and the estimated total annual burden hours are 4,480.

Status of the proposed information collection: Reinstatement with change of previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: February 13, 2001.

Wayne Eddins,

Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01-4384 Filed 2-21-01; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4655-N-04]

Notice of Proposed Information Collection: Comment Request; Minimum Property Standards for Housing

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 23, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Cocke, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-6409 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Minimum Property Standards for Housing.

OMB Control Number, if applicable: 2502-0321.

Description of the need for the information and proposed use: Section 304(a)(3) of the Housing and Urban Rural Recovery Act of 1983, permits the Secretary of the Department of Housing and Urban Development to assist properties that comply with State and local codes which are the equivalent to model building codes. This Act makes the Secretary responsible for determining equivalence.

Agency form numbers, if applicable: HUD Handbook 4910.1.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total number of hours needed to prepare the information collection is 10,800, the number of respondents is approximately 1,350, frequency of response is once a year, and the hours per response is 8 hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: February 13, 2001.

Wayne Eddins,

*Departmental Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 01-4385 Filed 2-21-01; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4655-N-05]

Notice of Proposed Information Collection: Comment Request; Use of Materials Bulletins Used in the HUD Building Products Standards and Certification Program

AGENCY: Office of Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 23, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Cocke, Acting Director, Officer of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708-6409 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of

information technology, e.g., permitting electronic submission of responses. This Notice also lists the following information:

Title of Proposal: Use of Materials Bulletins Used in the HUD Building Products Standards and Certification Program.

OMB Control Number, if applicable: 2502-0526.

Description of the need for the information and proposed use: This proposed rule would adopt a number of Use of Material Bulletins (UM's) and references related to national voluntary consensus standards in accordance with OMB Circular 119A. This includes supplements to the HUD Building product Standards and Certification Program.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total number of hours needed to prepare the information collection is 400, the number of respondents is 20, the frequency of response is on occasion, and hours per response is approximately 20 hours.

Status of the proposed information collection: Extension of a previously approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: February 13, 2001.

Wayne Eddins,

*Departmental Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 01-4386 Filed 2-21-01; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4650-N-15]

Notice of Submission of Proposed Information Collection to OMB Prospectus

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 26, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2503-0018) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction

Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Prospectus.

OMB Approval Number: 2503-0018.

Form Numbers: HUD-11712, 11712-11, 11717, 11717-11, 1724, 11728, 11728-11, 1731, 1734, 11747, 11747-11, 11772-11.

Description of the Need for the Information and its Proposed Use: GNMA is authorized to guarantee the timely payment of principal and interest on securities which are based on or backed by a pool composed of mortgages insured by the FHA. Forms are used to provide a standard format for the description of securities for each type of mortgage eligible for inclusion in a mortgage-backed securities pool. Since each type of mortgage has different characteristics, it is necessary to have separate prospectuses for each program.

Respondents: Business or other for-profit, Federal Government.

Frequency of Submission: On occasion.

Reporting Burden

| No. of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|--------------------|---|-----------------------|---|--------------------|---|--------------|
| 655 | | 48 | | 0.25 | | 7,885 |

Total Estimated Burden Hours: 7,885.
Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 13, 2001.

Wayne Eddins,

*Departmental Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 01-4387 Filed 2-21-01; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Final Recovery Plan for Thirteen Plant Taxa From the Northern Channel Islands

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a final recovery plan for 13 plant taxa from the northern Channel Islands, California. These taxa include 11 plants listed as endangered, Hoffmann's rock-cress (*Arabis hoffmannii*), Santa Rosa Island manzanita (*Arctostaphylos confertiflora*), island barberry (*Berberis*

pinnata ssp. *insularis*), soft-leaved paintbrush (*Castilleja mollis*), island bedstraw (*Galium buxifolium*), Hoffmann's slender-flowered gilia (*Gilia tenuiflora* ssp. *hoffmannii*), Santa Cruz Island bushmallow (*Malacothamnus fasciculatus* var. *nesioticus*), Santa Cruz Island malacothrix (*Malacothrix indecora*), island malacothrix (*Malacothrix squalida*), island phacelia (*Phacelia insularis* var. *insularis*), and Santa Cruz Island fringe-pod (*Thysanocarpus conchuliferus*) and two plants listed as threatened, Santa Cruz Island dudleya (*Dudleya nesiotica*) and island rush-rose (*Helianthemum greenei*). These threatened and endangered plants are native to Anacapa, San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina Islands. To assure their recovery, they require control of introduced herbivores and weeds, habitat restoration, and reintroduction measures.

ADDRESSES: Recovery plans that have been approved by the U.S. Fish and Wildlife Service are available on the World Wide Web at <http://www.r1.fws.gov>. Recovery Plans may also be obtained from: Fish and Wildlife Reference Service, 5430 Grosvenor Lane, Suite 110, Bethesda, Maryland 20814, 301/429-6403 or 1-800-582-3421. The fee for the plan varies

depending on the number of pages of the plan.

FOR FURTHER INFORMATION CONTACT: Tim Thomas, Fish and Wildlife Biologist, Barstow Field Sub-Office of the U.S. Fish and Wildlife Service, 222 East Main Street, Suite 202, Barstow CA 92311, (phone 760/255-8890).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U. S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, we are working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in

1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. Information presented during the public comment period has been considered in the preparation of the final recovery plan, and is summarized in the appendix to the recovery plan. We will forward substantive comments regarding recovery plan implementation to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions.

All 13 plant taxa covered in this recovery plan are endemic to the northern Channel Islands (Anacapa, Santa Cruz, Santa Rosa, and San Miguel), with the exception of a few populations of island rush-rose that occur on the more southerly island of Santa Catalina. These plants occur in a variety of habitats: coastal terrace, coastal bluff scrub, coastal sage scrub, and chaparral. All 13 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following: soil loss; historic and continuing habitat alteration by mammals alien to the Channel Islands (pigs, goats, sheep, donkeys, cattle, deer, elk, horses, bison); direct predation by these same alien mammals; habitat alteration by native seabirds; competition with alien plant taxa; and increased vulnerability to extinction due to reduced genetic viability, depressed reproductive vigor, and the chance of extinction from random naturally occurring events because of small numbers of individuals and isolated populations.

The objective of this plan is to conserve the plants so that protection by the Act is no longer necessary. Actions necessary to accomplish this objective include active control programs for introduced animals, implementation of an interagency Conservation Strategy, habitat restoration and weed control, surveys, conservation research, seed storage in cooperating facilities, and development of techniques for germination, propagation, and outplanting.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: February 15, 2001.

Michael J. Spear,

Manager, California/Nevada Operations Office, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 01-4365 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Mitten Crab Control Committee Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force Mitten Crab Control Committee. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION**.

DATES: The Mitten Crab Control Committee will meet from 9 a.m. to 4:30 p.m., Tuesday, March 6, 2001.

ADDRESSES: The Mitten Crab Control Committee Meeting will be held in the Pavilion Room at the Radisson Hotel, 500 Leisure Lane, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Sharon Gross, Executive Secretary, Aquatic Nuisance Species Task Force, at 703-358-2308 or by e-mail at sharon_gross@fws.gov or Kim Webb, Mitten Crab Control Committee Chair, at 209-946-6400.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Aquatic Nuisance Species Task Force Mitten Crab Control Committee. The ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Topics to be covered during the Mitten Crab Control Committee meeting include: a review of the life history of the mitten crab, a description of the California invasion, a review of the draft management plan, an update of the current status, and a discussion of Committee actions to further develop a comprehensive management plan.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 810, 4401 North Fairfax Drive, Arlington, Virginia 22203-1622, and will be available for public inspection during regular business hours, Monday through Friday.

Dated: February 14, 2001.

Cathleen I. Short,

Co-Chair, Aquatic Nuisance Species Task Force, Assistance Director—Fisheries and Habitat Restoration.

[FR Doc. 01-4359 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Addition to Ninigret National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Director of the U.S. Fish and Wildlife Service has approved the 114 acre expansion of the Ninigret National Wildlife Refuge.

DATES: This action was effective on February 9, 2001.

FOR FURTHER INFORMATION CONTACT: Andrew French, Chief, Division of Realty, U.S. Fish and Wildlife Service, 2nd Floor, 300 Westgate Center Drive, Hadley, Massachusetts. Telephone 413-253-8590.

SUPPLEMENTARY INFORMATION: This property has been identified as the preferred site for the proposed Rhode Island National Wildlife Complex visitor center. The property is also within the boundary of all the proposed alternatives of the draft Comprehensive Conservation Plan currently proposed for the Rhode Island Complex.

Based on the information contained in the decision document, a categorical exclusion was signed on December 20, 2000, by the Regional Director.

Dated: February 9, 2001.

Marshall P. Jones, Jr.,

Acting Director.

[FR Doc. 01-4356 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Notice of Proposed Cooperative Research and Development Agreement (CRADA) Negotiations Under the Technology Transfer Act of 1986

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Schering-Plough Animal Health Corporation to seek U.S. Food and Drug Administration approval of the antibacterial florfenicol for use in public and private aquaculture.

Inquiries: If any other parties are interested in similar activities with the USGS, please contact: William H. Gingerich, 2630 Fanta Reed Road, La Crosse, Wisconsin 54603; Telephone 608-783-6451; Internet "bill_gingerich@usgs.gov".

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the Survey Manual.

Susan Haseltine,

Chief Scientist for Biology.

[FR Doc. 01-4412 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-47-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-500-0777-XG-2522]

Front Range Resource Advisory Council (Colorado) Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, notice is hereby given that the next meeting of the Front Range Resource Advisory Council (Colorado) will be held on March 8 in Canon City, Colorado. The meeting is scheduled to begin at 9:15 a.m. at the Holy Cross Abbey Community Center, 2951 E. Highway 50, Canon City, Colorado. Topics will include a discussion on RAC operations and coordination and an update on the Arkansas River Water Needs Assessment and Arkansas Headwaters Management Plan. All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council at 9:30 a.m. or written statements may be submitted for the Council's consideration. The Center Manager may limit the length of oral presentations depending on the number of people wishing to speak.

DATES: The meeting is scheduled for Thursday, March 8, 2001 from 9:15 a.m. to 4 p.m.

ADDRESSES: Bureau of Land Management (BLM), Front Range Center, 3170 East Main Street, Canon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: Ken Smith at (719) 269-8500.

SUPPLEMENTARY INFORMATION: Summary minutes for the Council meeting will be maintained in the Canon City Center and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: February 9, 2001.

Levi Deike,

Front Range Center Manager.

[FR Doc. 01-4315 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-JB-U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-700-01-1220-AL-1784]

Southwest Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Southwest Resource Advisory Council meeting.

SUMMARY: Notice is hereby given that the Southwest Resource Advisory Council (Southwest RAC) will meet in April, 2001 in Durango, Colorado.

DATES: The meeting will be held on Thursday, April 12, 2001.

ADDRESSES: For additional information, contact Roger Alexander, Bureau of Land Management, 2465 South Townsend Avenue, Montrose, Colorado 81401; phone 970.240.5335; e-mail roger_alexander@co.blm.gov.

SUPPLEMENTARY INFORMATION: The April 12, 2001 meeting will be held at the San Juan Public Lands Center, Sonoran Rooms A & B, 15 Burnett Court in Durango, Colorado. The meeting will begin at 9 a.m. and end no later than 4:30 p.m. The agenda will include a presentation on BLM's oil and gas program responsibilities and RAC business items for 2001. General public comment is scheduled for 9:15 a.m.

Summary minutes for Council meetings are maintained at BLM's Western Slope Center office in Montrose and on the internet at <http://www.co.blm.gov/swrac/swrac.htm> and are available for public inspection and reproduction within thirty (30) days following each meeting.

Dated: February 9, 2001.

Roger Alexander,

Public Affairs Specialist.

[FR Doc. 01-4316 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-JB-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-020-1310-00]

Notice of Intent for Planning Analyses

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent for Planning Analyses.

SUMMARY: The Jackson Field Office, Eastern States, will prepare Planning Analyses (PA) for consideration of leasing several scattered tracts of Federal mineral estate for oil and gas

exploration and development. The PAs will be prepared in concert with Environmental Analyses (EA).

This notice is issued pursuant to Title 40 Code of Federal Regulations (CFR) 1501.7 and Title 43 CFR 1610.2(c). The planning effort will follow the procedures set forth in 43 CFR Part 1600.

The public is invited to participate in this planning process, beginning with the identification of planning issues and criteria.

DATES: Comments relating to the identification of planning issues and criteria will be accepted for thirty days from the date of this publication.

ADDRESSES: Send comments to Bureau of Land Management, Jackson Field Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206.

FOR FURTHER INFORMATION CONTACT: Quazi T. Islam, Physical Scientist, Jackson Field Office, (601) 977-5400.

SUPPLEMENTARY INFORMATION: The BLM has responsibility to consider applications to lease Federal mineral estate for oil and gas exploration and development. An interdisciplinary team will be used in the preparation of the PA/EAs. Preliminary issues, subject to change as a result of public input, are (1) potential impacts of oil and gas exploration and development on the surface resources and (2) consideration of restrictions on lease rights to protect surface resources. A separate analysis will be prepared for all tracts within each state. Tract locations, along with acreages, are listed below.

Alabama, Tuscaloosa County, Huntsville Meridian,

T 18 S, R 8 W, Section 8:N $\frac{1}{2}$ SW $\frac{1}{4}$, 80.0 acres.

Alabama, Tuscaloosa County, Huntsville Meridian,

T 18 S, R 9 W, Section 18:SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 19: NW $\frac{1}{4}$ SE $\frac{1}{4}$ & SW $\frac{1}{4}$ SW $\frac{1}{4}$; Section 30: NE $\frac{1}{4}$ SE $\frac{1}{4}$; and Section 31: SW $\frac{1}{4}$ SW $\frac{1}{4}$, 200.0 acres.

Alabama, Tuscaloosa County, Huntsville Meridian,

T 19 S, R 9 W, Section 8:SE $\frac{1}{4}$ SE $\frac{1}{4}$, 40.0 acres.

Alabama, Tuscaloosa County, Huntsville Meridian,

T 19 S, R 8 W, Section 30:NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, & NE $\frac{1}{4}$ SW $\frac{1}{4}$, 200.0 acres.

Louisiana, Lafourche Parish, Louisiana Meridian,

T 14 S, R 18 E, Section 19: S $\frac{1}{2}$ SW $\frac{1}{4}$, 75.48 acres.

Mississippi, Amite County, Washington Meridian,

T 1 N, R 4 E, Section 26: E $\frac{1}{2}$ NW $\frac{1}{4}$, and all

of Section 39, 403.34 acres.

Due to the limited scope of this PA/EA process, public meetings are not scheduled.

Bruce E. Dawson,

Field Manager, Jackson Field Office.

[FR Doc. 01-4317 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-GJ-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-020-1430-EQ; N-73965]

Notice of Realty Action for Proposed Occupancy Lease of Public Lands, Nevada.

AGENCY: Bureau of Land Management, Interior.

ACTION: The proposed leasing of public lands for a year round residence.

The site proposed for leasing under provisions of section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976 and 43 CFR Part 2920 is described as a portion of:

Mount Diablo Meridian, Nevada

T. 31 N., R. 23 E.,

Sec. 11: S¹/₂SE¹/₄SE¹/₄NW¹/₄SW¹/₄,

N¹/₂NE¹/₄NE¹/₄SW¹/₄SW¹/₄,

W¹/₂NW¹/₄NW¹/₄SE¹/₄SW¹/₄.

The proposal would include approximately 2.59 acres.

The parcel affected by the proposed lease is located adjacent to the airport near the community of Empire, Nevada. No additional development/construction, or surface disturbance of the area would occur as a result of this lease.

No other proposals will be accepted. The subject parcel is currently encumbered by a mobile home, garage, shed, corral, and is fenced. All structures on the subject parcel are owned by the applicant and were originally authorized in a Public Airport Lease that was issued March 10, 1982. The lease was issued pursuant to the Act of May 24, 1928, as amended, (49 U.S.C. 211-214) and the regulations thereunder (43 CFR 2911).

The purpose of the occupancy lease is to segregate the occupied area from the current Public Airport Lease N-12640. Therefore, no other proposals would be acceptable.

The proposal would be authorized by a lease for a term of 10 years. The lease could be renewed at the discretion of the authorized officer.

The subject parcel falls into the Market Rental/Minimum Transaction Value for Small Sites of 5 acres or Less Category, which has determined the rent

to be \$500.00 per year, for parcels less than 5 acres. This rent determination will be in effect until September 20, 2001 at which time it will be reviewed and adjusted accordingly.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Winnemucca Field Office, 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445. In the absence of adverse comments, an application for the proposed use will be processed in accordance with propose application procedures.

FOR FURTHER INFORMATION CONTACT:

Mary Figarelle, Realty Specialist, Winnemucca Field Office, 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445, or call (775) 623-1500.

Dated: February 7, 2001.

Terry A. Reed,

Field Manager, Winnemucca, Nevada.

[FR Doc. 01-4314 Filed 2-21-01; 8:45 am]

BILLING CODE 4310-HC-U

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated September 6, 2000, and published in the **Federal Register** on September 25, 2000, (65 FR 57621), American Radiolabeled Chemical, Inc., 11624 Bowling Green Drive, St. Louis, Missouri 63146, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|----------|
| Gamma hydroxybutyric acid (2010) | I |
| Lysergic acid diethylamide (7315) | I |
| Dimethyltryptamine (7435) | I |
| Dihydromorphine (9145) | I |
| Phencyclidine (7471) | II |
| Cocaine (9041) | II |
| Codeine (9050) | II |
| Hydromorphone (9150) | II |
| Benzoyllecgonine (9180) | II |
| Meperidine (9230) | II |
| Metazocine (9240) | II |
| Morphine (9300) | II |
| Oxymorphone (9652) | II |

The firm plans to bulk manufacture small quantities of the listed controlled substances as radiolabeled compounds.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the

registration of American Radiolabeled Chemical, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated American Radiolabeled Chemical, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: February 6, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01-4318 Filed 2-21-01; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request: Comment Request; Prohibited Transaction Class Exemption 81-6

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of the information collection provisions of Prohibited Transaction Exemption 81-4. A copy of the

Information Collection Request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section below on or before April 23, 2001.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: (202) 219-4782; Fax: (202) 219-4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 81-6 permits an employee benefit plan to lend securities to a broker-dealer registered under the Securities Exchange Act of 1934 or to a bank, where the borrowing broker-dealer or bank is a party in interest, provided certain conditions are met. In the absence of an exemption, securities lending transactions would be prohibited under circumstances where the borrowing broker-dealer or bank is a party in interest or disqualified person with respect to the plan under the Employee Retirement Income Securities Act (ERISA) or the Internal Revenue Code (Code).

I. Desired Focus of Comments

The Department is particularly interested in comments that:

- 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 a practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

III. Current Actions

The class exemption has two basic information collection requirements. The first requires the borrower of the

plan securities to report certain information to the lending plan fiduciary, and the second calls for a written agreement between the lending plan and the borrower. This notice requests comments on the extension of the ICR included in the Prohibited Transaction Class Exemption 81-6. The Department is not proposing or implementing changes to the existing ICR at this time.

Type of Review: Extension of a currently approved collection of information.

Agency: Pension and Welfare Benefits Administration, Department of Labor.

Titles: Prohibited Transaction Class Exemption 81-6.

OMB Number: 1210-0065.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 42,000.

Frequency of Response: On occasion.

Responses: 126,000.

Estimated Total Burden Hours: 10,500.

Total Burden Cost (Operating and Maintenance): \$47,880.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: February 12, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 01-4408 Filed 2-21-01; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection; Comment Request Prohibited Transaction Class Exemption 82-63

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format,

reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the information collection request (ICR) incorporated in Prohibited Transaction Class Exemption 82-63 (PTE 82-63) involving compensation arrangements for securities lending services. A copy of the ICR may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section below on or before April 23, 2001.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: (202) 219-4782; Fax: (202) 219-4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

PTE 82-63 allows certain compensation arrangements to be made for the provision by a fiduciary of securities lending services to an employee benefit plan, if the conditions specified in the exemption are met. In the absence of this exemption, certain aspects of these transactions might be prohibited by section 406 of the Employee Retirement Income Security Act. The class exemption has two basic information collection requirements. The first requirement is that the compensation be paid in accordance with a written instrument authorized by a non-lending fiduciary, and the second is that the lending fiduciary furnish the authorizing fiduciary with information needed for the authorizing fiduciary to determine whether the compensation arrangement should be made or renewed.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

III. Current Action

This notice requests comments on the extension of the ICR included in PTE 82-63. The Department is not proposing or implementing changes to the existing ICR at this time.

Type of Review: Extension of a currently approved collection of information.

Agency: Pension and Welfare Benefits Administration, Department of Labor.

Titles: Prohibited Transaction Class Exemption 82-63.

OMB Number: 1210-0062.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 42,000.

Frequency of Response: On occasion.

Responses: 42,000.

Estimated Total Burden Hours: 3,500.

Total Burden Cost (Operating and Maintenance): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: February 15, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 01-4409 Filed 2-21-01; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

Agency Information Collection Activities: Proposed Collection; Comment Request: Federal Contractor Veterans' Employment Report VETS- 100

AGENCY: Veterans' Employment and Training Service, Labor.

ACTION: Extend current collection for three years.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce

paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506 C (2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Comments are to be submitted by April 23, 2001.

ADDRESSES: Comments are to be submitted to the Veterans' Employment and Training Service, U.S. Department of Labor, Room S-1316, 200 Constitution Ave., NW., Washington, DC 20210, telephone (202) 693-4701. Written comments limited to 10 pages or fewer may also be transmitted by facsimile to (202) 693-4755. Receipt of submissions, whether by U.S. mail, e-mail or FAX transmittal, will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning VETS at (202) 693-4717 (VOICE) or (877) 670-7008 (TY/TDD).

FOR FURTHER INFORMATION: Contact Ron Bachman, Office of Operations and Programs, Veterans' Employment and Training Service, U.S. Department of Labor, Room S-1316, 200 Constitution Ave., NW., Washington, DC 20210, telephone: (202) 693-4707. Copies of the referenced information collection request are available for inspection and copying through VETS and will be mailed to persons who request copies by telephoning Ron Bachman at (202) 693-4707.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Contractor Veterans Employment Report VETS-100 is administered by the U.S. Department of Labor, is used to facilitate Federal contractor and subcontractor reporting of their employment and new hiring activity. Title 38 U.S.C., section 4212 (d) was amended by the Veterans' Employment Opportunities Act on October 31, 1998, and now requires the collection of information from entities holding contracts of \$25,000 or more with Federal Departments or agencies to report annually on (a) the number of current employees in each job category and at each hiring location who are special disabled veterans, the number

who are veterans of the Vietnam era, and the number who are other eligible veterans who served on active duty during a war or a campaign or expedition for which a campaign badge has been authorized; (b) the total number of employees hiring during the report period and of those, the number of special disabled, the number who are veterans of the Vietnam era, and the number who are other veterans; and the maximum and minimum number of employees employed by the contractor at each hiring location.

II. Desired Focus of Comments

Currently the Veterans' Employment and Training Service (VETS) is soliciting comments concerning the proposed information collection request for the Federal Contractor Veterans' Employment Report VETS-100. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

This notice requests the Office of Management and Budget approval for the paperwork requirements for the Federal Contractor Veterans' Employment Report VETS-100.

Type of Review: Regular Submission.

Agency: Veterans' Employment and Training Service.

Title: Federal Contractor Veterans' Report VETS-100.

OMB Number: 1293-0005.

Affected Public: Business or other for-profit institutions and not-for-profit institutions.

Total Respondents: 194,580.

Average Time per Response: 30 minutes.

Total Burden Hours: 97,290.

Total Annualized Capital/startup costs: \$0.

Comments submitted in response to this notice will be summarized and included in the request for the Office of Management and Budget approval of the information collection request. Comments will become a matter of public record.

Dated: February 13, 2001.

Stanley Seidel,

First Assistant to the Secretary, Veterans' Employment and Training Service.

[FR Doc. 01-4410 Filed 2-21-01; 8:45 am]

BILLING CODE 4910-79-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01-028]

National Environmental Policy Act; Mars Exploration Rover-2003 Project

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to prepare an environmental impact statement and to conduct scoping for the Mars Exploration Rover-2003 (MER-2003) project.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508), and NASA's policy and procedures (14 CFR part 1216 subpart 1216.3), NASA intends to conduct scoping and prepare an environmental impact statement (EIS) for the proposed Mars Exploration Rover-2003 (MER-2003) project. The purpose of this project would be to place two mobile science laboratories (rovers) on the surface of Mars to remotely conduct geological investigations, and to characterize a diversity of rocks and soils, which may hold clues to past water activity.

The MER-2003 project involves two launches in 2003 of identical MER-2003 spacecraft (the MER-A mission and MER-B mission) from Cape Canaveral Air Force Station (CCAFS), Florida. The MER-A launch aboard a Delta II launch system would occur during May or June 2003. The MER-B launch would occur during June or July 2003, also aboard a Delta II launch system. Potential environmental impacts to be considered are those potential impacts associated with normal launches from CCAFS, and radiological and non-radiological risks associated with launch accidents. Each rover and its associated lander in combination (lander-rover) may require the use of up to 11 Radioisotope Heater

Units (RHUs) for temperature control and small quantities of curium-244 and cobalt-57 for scientific instrumentation.

DATES: Interested parties are invited to submit comments on environmental concerns in writing on or before April 9, 2001, to assure full consideration during the scoping process.

ADDRESSES: Comments should be addressed to Mr. David Lavery, NASA Headquarters, Code SD, Washington, DC 20546-0001. While hardcopy comments are preferred, comments may be sent by electronic mail to: marsnepa@hq.nasa.gov.

FOR FURTHER INFORMATION CONTACT:

David Lavery, 202-358-4800 or by electronic mail at marsnepa@hq.nasa.gov.

SUPPLEMENTARY INFORMATION: NASA proposes to launch the MER-2003 spacecraft (MER-A and MER-B) in 2003 to gather scientific data on the geological characteristics of the Martian surface environment in pursuit of NASA's goal of understanding Mars in terms of whether or not life exists or has ever existed on the planet. The MER-2003 project would help NASA ensure continuity of its overall Mars exploration efforts.

The proposed first launch of the MER-A mission would take place during May or June 2003 from CCAFS. A Delta II launch system would be employed to launch the spacecraft on its trajectory to Mars, with an arrival in January 2004. The Delta II launch system would include nine graphite epoxy strap-on solid rocket motors, a liquid bi-propellant first stage, a liquid bi-propellant restartable second stage, and a solid propellant STAR-48B third stage. The MER-B mission would be launched from CCAFS during June or July 2003 using a Delta II launch system, with an arrival at Mars in February 2004.

Each MER-2003 spacecraft would consist of a cruise stage and an entry, descent, and landing (EDL) system which would include an aeroshell, backshell, parachute, and airbags. A lander containing a large rover would be enclosed within the EDL system. The primary function of the EDL system would be to convey its lander-rover safely to the surface of the planet. Each rover would weigh up to approximately 153 kilograms (about 337 pounds). Each rover would carry all science instruments and communications equipment for transmitting to and receiving data from Earth, either by using an existing Mars orbiting spacecraft or by communicating directly with Earth.

Each rover would be equipped with a number of scientific instruments, including: a stereo panoramic camera, a miniature thermal emission spectrometer, a magnetic target array, a Moëssbauer spectrometer, a microscopic surface imager, an alpha-particle X-ray spectrometer (APXS), and a rock abrasion tool. These instruments would be employed to characterize the chemical and geological nature of the landing site and surrounding area, and to provide images for transmission to Earth. Each rover would be designed to function a minimum of 90 sols (1 sol = 1 Martian day = 24 hours, 37 minutes or 1.026 Earth days). The Moëssbauer spectrometer and the APXS both would employ small amounts of radioactive materials as instrument sources. The Moëssbauer spectrometer would utilize up to 1.30×10^{10} becquerels (Bq) (350 millicuries (mCi)) of cobalt-57. The APXS would use up to 1.85×10^9 Bq (50 mCi) of curium-244. Radioisotope Heater Units (RHUs) would be used on each rover to support survival of science instruments and electronics in the low temperatures on Mars. RHUs may also be required on each lander for thermal control during cruise. Each RHU contains approximately 2.7 grams (about 0.1 ounce) of plutonium dioxide to generate heat. A total of up to eleven RHUs may be required on-board each lander-rover. The inventory of plutonium dioxide on-board each lander-rover could total up to 29.7 grams (1.1 ounces) with a total activity of about 13.5×10^{12} Bq (approximately 365 curies (Ci)).

The proposed MER-2003 missions would employ a technique similar to that demonstrated by the 1996 Mars Pathfinder mission to ensure a safe landing on the surface of Mars. This technique would employ a heat shield, small solid retro-rockets, and a parachute to decelerate the lander as it passes through the Martian atmosphere. A system of airbags would then be used to cushion and protect the lander upon contact with the Martian surface. Once each lander comes to rest the airbags would deflate and the lander petals would unfold. Each rover would then drive off of its lander platform and begin exploring the landing site. NASA has not selected specific landing sites yet but is currently considering potential sites between 15 degrees South to 5 degrees North for the MER-A mission, and between 15 degrees South and 15 degrees North for the MER-B mission.

This EIS will address the purpose and need for the proposed MER-2003 project in detail and the environmental impacts associated with its implementation. The environmental

impacts of this project are anticipated to be those associated with the normal launch of both missions. Potential consequences of accident situations will also be addressed.

Written public input and comments on environmental impacts and concerns associated with the Mars Exploration Rover-2003 project are requested.

Jeffrey E. Sutton,

Associate Administrator for Management Systems.

[FR Doc. 01-4363 Filed 2-21-01; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meetings/ Conference Calls

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming meetings/conference calls for NCD's advisory committee—International Watch. Notice of this meeting is required under section 10(a)(1)(2) of the Federal Advisory Committee Act (P.L. 92-463).

International Watch

The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Work Group: International Convention on the Human Rights of People with Disabilities.

Date and Time: March 8, 2001, 11 a.m.–12 p.m. EST.

Work Group: Inclusion of People with Disabilities in Foreign Assistance Programs.

Date and Time: March 14, 2001, 12 p.m.–1 p.m. EST.

FOR FURTHER INFORMATION CONTACT:

Kathleen A. Blank, Attorney/Program Specialist, NCD, 1331 F Street NW, Suite 1050, Washington, DC 20004; 202-272-2004 (Voice), 202-272-2074 (TTY), 202-272-2022 (Fax), kblank@ncd.gov (e-mail).

Agency Mission

NCD is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability;

and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meetings/Conference Calls

These advisory committee meetings/conference calls of NCD will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference calls at the NCD office. Those interested in joining these conference calls should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings/conference calls and will be available after the meeting for public inspection at NCD.

Signed in Washington, DC, on February 15, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01-4357 Filed 2-21-01; 8:45 am]

BILLING CODE 6820-MA-M

NATIONAL INDIAN GAMING COMMISSION

Paperwork Reduction Act

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The National Indian Gaming Commission (NIGC), in accordance with the Paperwork Reduction Act of 1995, is submitting to the Office of Management and Budget (OMB) a request to review and extend approval for the following information collection activities: (1) Compliance and Enforcement under the Indian Gaming Regulatory Act (IGRA); (2) approval of Class II and Class III Gaming Ordinances; and (3) National Environmental Policy Act Procedures. The NIGC is also submitting a request for reinstatement of the approval for collection of information related to its review and approval of management contracts for the operation of tribal gaming facilities. OMB previously approved this information collection requirement but the approval has expired. The OMB will consider comments from the public on these information collection activities.

Dates and Addresses: Comments for the NIGC's evaluation of the information collection activities and its request to OMB to extend or approve the information collections must be received by March 31, 2001. When providing comment, a respondent should specify the particular collection activity to which the comment pertains. Send comments to: Office of Information and Regulatory Affairs (Attn: Desk Officer for the National Indian Gaming Commission), Office of Management and Budget, 725 17th Street NW., Washington, DC 20503. The NIGC regulations to which the information collections pertain are available on the NIGC website, www.nigc.gov. A copy of the NEPA procedures for the NIGC are available on request by providing a mailing address to the point of contact for questions and comments listed on the website. Both the regulations and the NEPA procedures are also available by written request to the NIGC (Attn: Ms. Juanita Mendoza), 1441 L Street NW., Suite 9100, Washington, DC, 20005, or by telephone request at (202) 632-7003. This is not a toll-free number. All other requests for information should be submitted to Ms. Mendoza at the above address for the NIGC.

SUPPLEMENTARY INFORMATION:

Title: Compliance and Enforcement under the Indian Gaming Regulatory Act.

OMB Number: 3141-0001.

Abstract: The Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*) [IGRA] governs the regulation of gaming on Indian lands. Although the IGRA places primary responsibility with the tribes for regulating gaming, section 2706 (b) of the Act directs the NIGC to monitor gaming conducted on Indian lands on a continuing basis. The IGRA authorizes the NIGC to access and inspect all papers, books and records relating to gaming conducted on Indian lands. In accordance with this statutory responsibility, 25 CFR 571.7 requires Indian gaming operations to keep permanent financial records. 25 CFR 571.12 and 571.13 require, respectively, an annual independent audit of a tribe's gaming operations and submission of this audit to the NIGC. The NIGC uses this information to fulfill its statutory responsibility to monitor Indian gaming. Additionally, section 2713(a) of the IGRA authorizes the Chairman to issue civil fine assessments and closure orders for violations of the Act or the Commission's regulations. This authority is implemented through 25 CFR part 575. The full Commission

reviews these matters on appeal under 25 CFR part 577.

Estimated Burden: No additional burden is imposed by the requirements to maintain customary business records and to allow NIGC personnel access to those records. The preparation and submission of an annual audit are accomplished on a fixed fee basis. The response to enforcement actions would vary, but 164 hours would represent an average if a respondent utilized all appeal mechanisms.

Respondents: Indian tribes conducting gaming operations.

Estimated Number of Respondents: 220.

Estimated Annual Responses: 951.

Estimated Total Annual Hours

Burden: 2,194.

Estimated Total Annual Cost Burden: \$1,779,880.

Title: Approval of Class II and Class III Ordinances, Background Investigations and Gaming Licenses under the Indian Gaming Regulatory Act.

OMB Number: 3141-000-3.

Abstract: The IGRA establishes the National Indian Gaming Commission as an independent regulatory agency to oversee Indian gaming. The Act sets standards for the regulation of gaming including requirements for approval or disapproval of tribal gaming ordinances. IGRA section 2705(a)(3) requires the Chairman to review all class II and class III tribal gaming ordinances. In accordance with this provision, 25 CFR 552.2 of the NIGC's regulations requires tribes to submit to the NIGC: (1) A copy of the gaming ordinance to be approved, a copy of the authorizing resolution by which it was enacted by the tribal government, a request for approval of the ordinance or resolution; (2) a description of procedures the tribe will employ in conducting background investigations on key employees or primary management officials; (3) a description of procedures the tribe will use to issue licenses to primary management officials and key employees; (4) copies of all gaming regulations; (5) a copy of any applicable tribal-state compact; (6) a description of dispute resolution procedures for disputes arising between the gaming public and the tribe or management contractor; (7) identification of the law enforcement agent that will take fingerprints and a description of the procedures for conducting criminal history checks; and (8) designation of an agent for service of process. Under 25 CFR 522.3, tribes must submit any amendment to the ordinance or resolution for approval by the Chairman. In this instance, the tribe

must provide a copy of the authorizing resolution. The NIGC will use the information collected to approve or disapprove the ordinance or amendment. Section 2710 of the IGRA requires tribes to conduct background investigations on key employees and primary management officials involved in class II and class III gaming. 25 CFR parts 556 and 558 require tribes to perform each investigation using information such as name, address, previous employment records, previous relationships with either Indian tribes or the gaming industry, and licensing relating to those relationships, any convictions and any other information a tribe feels is relevant to the employment of the individuals being investigated. Tribes are then required to submit to the NIGC a copy of the completed employment applications and investigative reports and licensing eligibility determinations on key employees or primary management officials before issuing gaming licenses to those persons. The NIGC will use this information in conducting its review of the suitability determinations and will advise the tribe if it disagrees with any particular determination.

Estimated Burden: The reporting burden for this collection of information is estimated to be 80 hours per response for approval of an initial gaming ordinance, 5 hours per response for an amendment, and 400 hours annually, on the average, for each tribe for submission of matters related to background information and licensing.

Respondents: Indian tribes conducting gaming operations.

Estimated Number of Respondents: 220.

Estimated Annual Responses: 941.

Estimated Total Annual Burden

Hours: 89,590 hours.

Estimated Total Annual Cost Burden: \$2,758,400.

Title: National Environmental Policy Act Procedures.

OMB Number: 3141-006.

Abstract: The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) was enacted to encourage a national policy of protecting, enhancing, and restoring the quality of the human environment. The Council on Environmental Quality (CEQ), established pursuant to the National Environmental Policy Act (NEPA), promulgated implementing regulations at 40 CFR 1501 *et seq.* NEPA and CEQ's regulations require every Federal agency to establish procedures and strategies that consider the environmental consequences of Federal agency actions. Under NEPA, Federal agencies are required to prepare or cause to be

prepared environmental documents relating to actions by the agency that may have significant impact on the environment. The NEPA process will be triggered when a tribe and management contractor seek approval of a management contract under 25 CFR 533 which involves the construction of or significant modification to a gaming facility. NIGC procedures discuss the submission of an environmental assessment for consideration incident to that approval process. NIGC will use the environmental assessment in determining whether there is significant impact on the environment as a result of the construction or significant facility modification and may require mitigations described in the assessment to minimize any impact.

Respondents: Indian tribes seeking approval of a management contract for tribal gaming operations and/or a management contractor.

Estimated Number of Respondents: 50.

Estimated Annual Responses: 15.

Estimated Burden Hours Per

Response: 1,300.

Estimated Total Annual Burden

Hours: 19,500.

Estimated Total Annual Burden Cost: \$1,755,000.

Title: Approval of Management Contracts.

OMB Number: 3141-0004 (expired).

Abstract: Under sections 2710(e) and 2711 of the IGRA, subject to the approval of the NIGC Chairman, an Indian tribe may enter into a management contract for the operation and management of a tribal gaming activity. In approving a management contract, by the terms of the statute, the Chairman shall require and obtain the name, address, and other pertinent background information on each person or entity having a direct financial interest in, or management responsibility for such contract, and in the case of a corporation those individuals who serve on the board of directors of such corporation and each of its stockholders who hold 10 percent or more of its shares; a description of previous experience that each person has had with other Indian gaming contracts or with the gaming industry including any gaming licenses which the person holds; and a complete financial statement of each person listed. Under 25 CFR part 533, the Chairman requires the submission of the contract with original signatures, any collateral agreements to the contract, a tribal ordinance or resolution authorizing the submission and supporting documentation, a three-year business plan which sets forth the

parties' goals, objectives, budgets, financial plans, and related matters and income statements and sources and use of funds statements for the previous three years, and, for any contract exceeding five years or which includes a management fee of more than 30 percent, justification that the capital investment required and income projections for the gaming operation require the longer duration or the additional fee. Under 25 CFR part 535, the Chairman may approve a modification to a management contract or an assignment of that management contract based on information similar to that required under part 533. The part also specifies that the Chairman may void a previous management contract approval and allows the parties the opportunity to submit information relevant to that determination. 25 CFR part 537 specifies the requirements for submission of background information in amplification of the statutory requirement for obtaining information on persons and entities having a direct financial interest in or management responsibility for a management contract. Finally, 25 CFR part 539 permits appeals to the Commission from a decision of the Chairman to disapprove a management contract and allows the Indian tribe and the management company an opportunity to provide information relevant to that appeal. The NIGC will use the information collected to either approve or disapprove the contract or, in the case of an appeal, to grant or deny the appeal.

Estimated Burden: The reporting burden for this collection of information is estimated to be 80 hours per response for approval of a new management contract, 40 hours for approval of a management contract amendment, and 40 hours per response for an individual financial background investigation.

Respondents: Indian tribes conducting gaming and management contractors for tribal gaming operations.

Estimated Number of Respondents: 50.

Estimated Annual Responses: 228.

Estimated Total Annual Burden Hours: 9,720.

Estimated Total Annual Cost Burden: \$817,000.

Richard B. Schiff,

Acting Chief of Staff, National Indian Gaming Commission.

[FR Doc. 01-4397 Filed 2-21-01; 8:45 am]

BILLING CODE 7565-01-P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting

Regular Meeting of the Board of Directors

TIME AND DATE: 2 p.m., Monday, February 26, 2001.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW, Suite 800, Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, 202-220-2372 or jrbryson@nw.org.

AGENDA:

- I. Call to Order
- II. Approval of Minutes: November 20, 2000, Regular Meeting
- III. Audit Committee Report: January 9, 2001, Meeting
- IV. Budget Committee Report: January 25, 2001, Meeting
- V. Resolutions of Appreciation
- VI. Treasurer's Report
- VII. Executive Director's Management Report
- VIII. Adjournment

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 01-4554 Filed 2-20-01; 3:03 pm]

BILLING CODE 7570-01-M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 314—Certificate of Disposition of Materials.
2. *Current OMB approval number:* 3150-0028.
3. *How often the collection is required:* The form is submitted once, when a licensee terminates its license.

4. *Who is required or asked to report:* Persons holding an NRC license for the possession and use of radioactive byproduct, source, or special nuclear material who are ceasing licensed activities and terminating the license.

5. *The number of annual respondents:* 400.

6. *The number of hours needed annually to complete the requirement or request:* An average of 0.5 hours per response, for a total of 200 hours.

7. *Abstract:* NRC Form 314 furnishes information to NRC regarding transfer or other disposition of radioactive material by licensees who wish to terminate their licenses. The information is used by NRC as part of the basis for its determination that the facility has been cleared of radioactive material before the facility is released for unrestricted use.

Submit, by April 23, 2001, 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 collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site (<http://www.nrc.gov/NRC/PUBLIC/OMB/index.html>). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T-6 E 6, Washington, DC 20555-0001, by telephone at (301) 415-7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 14th day of February, 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01-4371 Filed 2-21-01; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–10]

Notice of Issuance of Amendment to Materials License SNM–2506; Nuclear Management Company, LLC; Prairie Island Independent Spent Fuel Storage Installation

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued Amendment 5 to Materials License SNM–2506 held by the Nuclear Management Company, LLC (NMC) for the receipt, possession, transfer, and storage of spent fuel at the Prairie Island Independent Spent Fuel Storage Installation (ISFSI), located in Goodhue County, Minnesota. The amendment is effective as of the date of issuance.

By application dated August 31, 1999, as supplemented November 8, 1999; and March 13, April 6, and October 16, 2000, NMC requested to amend its ISFSI license to specifically permit the storage of burnable poison rod assemblies (BPRAs) and thimble plug devices (TPDs) within the TN–40 casks used at the Prairie Island ISFSI. This amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

In accordance with 10 CFR 72.46(b)(2), a determination has been made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

Also in connection with this action, the Commission prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI). The EA and FONSI were published in the **Federal Register** on January, 29, 2001 (66 FR 8123).

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of the EA and FONSI are available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/>

[NRC/ADAMS/index.html](#) (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 12th day of February 2001.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–4370 Filed 2–21–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide DG–1096 and Draft Standard Review Plan Section 15.0.2

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public workshop.

SUMMARY: The Executive Director for Operations (EDO) of the Nuclear Regulatory Commission has instructed the NRC staff to resolve several issues resulting from the Independent Safety Assessment of the Maine Yankee Atomic Power Station. Of the eleven items identified by the EDO, four were concerned with analytical code validation, review, documentation and compliance with generic safety evaluations. All of these issues were generic in nature and resulted in the issuance of the two draft documents for public comment that are the subject of this workshop. The public comment period for these draft documents ended on February 15, 2001. It is the purpose of the workshop to exchange information among interested parties on the two documents and the comments received. After considering all comments and information, the NRC would issue the documents in their final form as acceptable guidance to licensees and vendors and to the NRC staff for review of analytical models.

DATES: April 9, 2001, 8 a.m.–5:30 p.m.

ADDRESSES: NRC Auditorium, (TWFN) of the Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, Maryland 20852.

AGENDA: To be provided.

SUPPLEMENTARY INFORMATION: This notice serves as notification of a public workshop to provide for the exchange of information with all stakeholders regarding the staff's efforts to provide comprehensive guidance for development, assessment and review of analytical methods used to calculate acceptable behavior of design basis events described in Chapter 15 of the Standard Review Plan (SRP) (NUREG–0800). The NRC encourages

stakeholders to make presentations at this workshop on the subject documents. In particular should the documents provide additional information on simplified conservative analyses methods or incremental changes to existing evaluation models?

This notice provides only the date, the location and a brief summary of the workshop. The workshop agenda will be provided at the workshop after integrating all requests for presentations.

Workshop Meeting Information

The staff intends to conduct a workshop to provide for an exchange of information related to Draft Regulatory Guide DG–1096 and SRP Section 15.0.2. Persons other than NRC staff and NRC contractors interested in making a presentation at the workshop should notify Norman Lauben, Office of Nuclear Regulatory Research, MS: T10–K08, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, (301) 415–6762, email: gnl1@nrc.gov.

Registration

There is no registration fee for the workshop; however, so that adequate space, materials, etc., for the workshop can be arranged, please provide notification of attendance to Norman Lauben, Office of Nuclear Regulatory Research, MS: T10–K08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–6762, email: gnl1@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Norman Lauben, SMSAB, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research, Washington, DC 20555–0001, telephone (301) 415–6762, email: GNL1@nrc.gov.

Dated at Rockville, Maryland, this 15th day of February 2001.

For the Nuclear Regulatory Commission.

Farouk Eltawila,

Acting Director, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research.

[FR Doc. 01–4372 Filed 2–21–01; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting

TIME AND DATE: 2 p.m., Thursday, March 8, 2001.

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Hearing open to the public at 2 p.m.

PURPOSE: In conjunction with the quarterly meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

PROCEDURE: Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m., March 7, 2001. The notice must include the individual's name, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request to participate an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m., March 7, 2001. Such statements must be typewritten, double-spaced and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda for the hearing identifying speakers, setting forth the subject on which each participant will speak, and the time allotted for each presentation. The agenda will be available at the hearing.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

CONTACT PERSON FOR INFORMATION:

Information on the hearing may be obtained from Connie M. Downs at (202) 336-8438, via facsimile at (202) 408-0297, or via email at cdown@opic.gov.

Dated: February 20, 2001.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 01-4489 Filed 2-20-01; 11:48 am]

BILLING CODE 3210-01-M

**OFFICE OF PERSONNEL
MANAGEMENT**

**Proposed Collection; Comment
Request for Review of a Revised
Information Collection: RI 25-51**

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104-13, May 22, 1995), this

notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 25-51, Civil Service Retirement System (CSRS) Survivor Annuitant Express Pay Application for Death Benefits, will be used by the Civil Service Retirement System solely to pay benefits to the widow(er) of an annuitant. This application is intended for use in immediately authorizing payments to an annuitant's widow or widower, based on the report of death, when our records show the decedent elected to provide benefits for the applicant.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 22,000 RI 25-51 forms will be completed annually. We estimate it takes approximately 30 minutes to complete the form. The annual estimated burden is 11,000 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606-8358, or E-mail to mbtoomey@opm.gov

DATES: Comments on this proposal should be received on or before April 23, 2001.

ADDRESSES: Send or deliver comments to Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management 1900 E Street, NW, Room 3349A, Washington, DC 20415.

FOR INFORMATION REGARDING

ADMINISTRATIVE COORDINATION CONTACT: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget and Administrative Services Division, (202) 606-0623.

U.S. Office of Personnel Management.

Steven R. Cohen,

Acting Director.

[FR Doc. 01-4368 Filed 2-21-01; 8:45 am]

BILLING CODE 6325-50-P

**OFFICE OF PERSONNEL
MANAGEMENT**

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Director, Washington Service Center, Employment Service (202) 606-1015.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on January 22, 2001 (62 FR 6705). Individual authorities established under Schedule C between December 1, 2000, and December 31, 2000, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule C

The following Schedule C authorities were established during December 2000:

Department of Agriculture

Staff Assistant to the Director, Legislative Liaison, Executive Secretariat and Public Affairs Staff. Effective December 19, 2000.

Department of Education

Special Assistant to the Assistant Secretary, Office of Legislation and Congressional Affairs. Effective December 1, 2000.

Confidential Assistant to the Special Assistant (White House Liaison and Trip Director). Effective December 1, 2000.

Special Assistant to the Director, Office of Educational Technology. Effective December 4, 2000.

Special Assistant, Region VII to the Secretary's Regional Representative. Effective December 5, 2000.

Confidential Assistant to the Counselor to the Secretary. Effective December 13, 2000.

Confidential Assistant to the Assistant Secretary of Intergovernmental and Interagency Affairs. Effective December 14, 2000.

Department of Housing and Urban Development

Staff Assistant to the Director, Office of Executive Scheduling. Effective December 8, 2000.

Director, Office of Press Relations to the Assistant Secretary for Public Affairs. Effective December 13, 2000.

Advance Coordinator to the Director of Executive Scheduling. Effective December 18, 2000.

Department of the Interior

Special Assistant to the Assistant Secretary for Policy, Management and Budget. Effective December 21, 2000.

Special Assistant to the Director, Office of Intergovernmental Affairs. Effective December 21, 2000.

Department of Labor

Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 11, 2000.

Special Assistant to the Assistant Secretary for Employment and Training. Effective December 11, 2000.

Director, Intergovernmental Affairs to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 11, 2000.

Special Assistant to the Director of the Women's Bureau. Effective December 15, 2000.

Special Assistant to the Solicitor of Labor. Effective December 15, 2000.

Special Assistant to the Assistant Secretary for Administration and Management. Effective December 15, 2000.

Special Assistant to the Director, Women's Bureau. Effective December 21, 2000.

Special Assistant to the Assistant Secretary, Employment Standards Administration. Effective December 28, 2000.

Department of Transportation

Associate Director for Media Relations and Special Projects to the Assistant to the Secretary and Director of Public Affairs. Effective December 19, 2000.

Department of the Treasury

Senior Advisor to the Assistant Secretary for Financial Institutions. Effective December 1, 2000.

Department of Veterans Affairs

Executive Assistant to the Assistant Secretary for Congressional Affairs. Effective December 13, 2000.

National Aeronautics and Space Administration

Senior Policy Advisor to the Deputy Associate Administrator for Policy and Planning. Effective December 21, 2000.

Office of Government Ethics

Confidential Assistant to the Director, Office of Government Ethics. Effective December 4, 2000.

Office of Personnel Management

Special Assistant to the Director of Communications. Effective December 7, 2000.

Special Assistant to the Director, United States Office of Personnel Management. Effective December 8, 2000.

Small Business Administration

Senior Advisor to the Associate Deputy Administrator of Entrepreneurial Development. Effective December 8, 2000.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.

Office of Personnel Management.

Steven R. Cohen,

Acting Director.

[FR Doc. 01-4366 Filed 2-21-01; 8:45 am]

BILLING CODE 6325-01-P

POSTAL SERVICE BOARD OF GOVERNORS**Sunshine Act Meeting**

TIMES AND DATES: 1 p.m., Monday, March 5, 2001; 8:30 a.m., Tuesday, March 6, 2001; 10 a.m., Tuesday, March 6, 2001; and 8:30 a.m. Wednesday, March 7, 2001.

PLACE: Washington, DC, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: March 5 (Closed); March 6—8:30 a.m. (Open); March 6—10 a.m. (Closed); March 7 (Closed).

MATTERS TO BE CONSIDERED:

Monday, March 5—1 p.m. (Closed)

1. Financial Performance.
2. Seattle, Washington, Processing and Distribution Center Upgrades.
3. Postal Rate Commission Opinion and Further Recommended Decision in Docket No. R2000-1.
4. Compensation Issues.
5. Personnel Matters.

Tuesday, March 6—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, February 5-6, 2001.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Fiscal Year 2000 Comprehensive Statement on Postal Operations.
4. Report on Capital Metro Operations.
5. Tentative Agenda for the April 2-3, 2001, meeting in Chicago, Illinois.

Tuesday, March 6—10 a.m. (Closed)

1. Strategic Planning.

Wednesday, March 7—8:30 a.m. (Closed)

1. Strategic Planning.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260-1000. Telephone (202) 268-4800.

David G. Hunter,

Secretary.

[FR Doc. 01-4531 Filed 2-20-01; 1:58 pm]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43964; File No. SR-DTC-00-18]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Establishment of "LENS-on-the-Web" Procedures and Fees

February 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on November 17, 2000, The Depository Trust Company ("DTC") 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 primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes "LENS-on-the-Web" procedures and fees whereby DTC participants may order copies of certain notices received by DTC from a menu on DTC's Internet website (www.DTC.org) through DTC's Legal Notice System ("LENS").²

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the

¹ 15 U.S.C. 78s(b)(1).

² The proposed procedures, attached as Exhibit B to DTC's proposed rule change, are available for inspection and copying in the Commission's Public Reference Room and the principal office of DTC.

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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.³

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1991, DTC created LENS to reduce the amount of paper that its participants

receive.⁴ LENS has been offered to DTC Participants since 1991 over DTC's proprietary PTS 3270 terminal network. Through the proposed rule change, DTC is seeking to offer the same LENS service to its participants over the Internet.⁵

LENS and LENS-on-the-Web allow participants to prescreen certain notices⁶ so that participants can avoid receiving and, ultimately, paying for the duplication and distribution of notices that are irrelevant to them. LENS has allowed, where practical, certain

enhancements to the historical notice distribution system. Enhancements have included: (1) The identification of CUSIP numbers; (2) participants' ability to search by CUSIP; (3) participants' access to a computer record of past notices with automatic order capability; (4) DTC's distribution of certain notices which would otherwise not be distributed by DTC, given their length or relative importance; and (5) equitable billing.⁷

Pricing for LENS-on-the-Web will be as follows:

| Activity | Description | Proposed fee |
|-----------------------|---|---|
| Access a Notice | Unlimited viewing and/or downloading of a notice during a single user's online session. | \$5 per notice. |
| Subscription | Unlimited viewing and/or downloading of notice(s) by one or more users. | \$999 per month per participant number. |
| E-Mail | E-mail a notice to one or more recipients | \$5 per e-mail form. |

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act⁸ and the rules and regulations thereunder applicable to DTC because it promotes efficiencies in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, in the public interest, and for the protection of investors.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has neither solicited nor received written comments from participants. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(iii)⁹ of the Act and Rule 19b-4(f)(4)¹⁰ promulgated thereunder

because it effects a change in an existing service of DTC that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service and pursuant to section 19(b)(3)(A)(ii)¹¹ of the Act and Rule 19b-4(f)(2)¹² promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by DTC. At any time within sixty days of the filing of such 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 proposed rule change is consistent with the Act. Persons making written submission 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC.

All submissions should refer to File No. SR-DTC-00-18 and should be submitted by March 15, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-4354 Filed 2-21-01; 8:45 am]

BILLING CODE 8010-01-M

³ The Commission has modified the text of the summaries prepared by DTC.

⁴ Securities Exchange Act Release No. 29291 (June 12, 1991), 56 FR 28190 (File No. SR-DTC-91-08) (order approving LENS use by DTC participants).

⁵ Initially, DTC intends to make only certain categories of LENS notices and LENS services available through LENS-on-the-Web (For example, asset backed notices and position-check capability

will not be included at the outset.). DTC will ultimately, however, make most, if not all, LENS notices and services available over LENS-on-the-Web, provided security issues and processing capacity permit.

⁶ These include notices relating to bankruptcies, tax information, corporate status, and transfer agents which are received by DTC and which DTC chooses to make available to participants via LENS and LENS-on-the-Web.

⁷ A participant only pays for those notices that it orders.

⁸ 15 U.S.C. 78q-1.

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(4).

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

¹³ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43957; File No. SR-NASD-01-11]

Self-Regulatory Organizations; Notice and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to EWN II Fees for Subscribers Who Are Not NASD Members

February 13, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 8, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. 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

Pursuant to section 19(b)(1) of the Act, and Rule 19b-4 thereunder, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq") is herewith filing a proposed rule change to increase the fees associated with the Enterprise Wide Network II ("EWN II") for non-members. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletion are in brackets.

NASD Rule 7010. System Services

(a)-(e) No Change.

(f) Nasdaq Workstation Service.

(1) No Change.

(2) The following charges shall apply to the receipt of Level 2 or Level 3 Nasdaq Service via equipment and communications linkages prescribed for the Nasdaq Workstation II Service:
Service Charge: [\$1,500]*\$1,875/month per service delivery platform ("SDP") from December 1, 2000 through February 28, 2001*
\$2,035/month per SDP beginning March 1, 2001

Display Charge: \$525/month per presentation device ("PD")

Additional Circuit/SDP Charge: [\$2,700]*\$3,075/month from December 1, 2000 through February 28, 2001, and \$3,235/month beginning March 1, 2001*

A subscriber that accesses Nasdaq Workstation II Service via an application programming interface ("API") shall be assessed the Service Charge for each of the subscriber's SDPs and shall be assessed the Display Charge for each of the subscriber's API linkages, including an NWII substitute or quote-update facility. API subscribers also shall be subject to the Additional Circuit/SDP Charge.

* * * * *

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 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. Nasdaq has prepared summaries, set forth below 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

The purpose of this filing is to obtain approval for the fees applicable to subscribers to Nasdaq Workstation II ("NWII") who are not NASD members. On December 14, 2000, Nasdaq submitted SR-NASD-00-74 under Rule 19b-4 to increase the fees for such non-members so that Nasdaq could recover costs related to increasing network capacity. The rationale for the fee increase is set forth below. Nasdaq also submitted rule filings to increase the fees for NASD members.³ Nasdaq requested accelerated approval of SR-NASD-00-74.

On January 4, 2001, the Securities and Exchange Commission published in the **Federal Register** a notice of filing and order granting accelerated approval of SR-NASD-00-74 on a temporary basis until January 31, 2001.⁴ The comment period on the rule filing closed on January 25, 2001, and the Commission received no comments. Nasdaq hereby requests that the Commission issue an

order granting approval of the rule change.

The following information provides the background and rationale for the fee increase that was described in SR-NASD-00-74. In 1994, Nasdaq rolled out the NWII service, which provided many enhancements to the then-existing Nasdaq Workstation service.⁵ As part of the NWII rollout, Nasdaq installed a network, known as the Enterprise Wide Network ("EWN I"), to deliver NWII functionality. To access NWII service, each subscriber location has at least one service delivery platform ("SDP"), or server, that resides on the network and connects to Nasdaq by a dedicated circuit. The SDP functions as the subscriber's gateway from the NWII to the enterprise wide network. Each SDP currently is permitted to support up to eight presentation devices ("PD"), or Nasdaq Workstation IIs, although a firm may elect to have fewer than eight PDs on a single SDP. In addition, a subscriber may obtain NWII service through an application programming interface ("API"), which essentially allows a firm to obtain NWII service using the firm's own hardware (e.g., personal computer) and software systems to access, display, interface with, and operate NWII service.

Due to the ongoing growth in the Nasdaq market and increases in daily share volume after EWN I was installed,⁶ Nasdaq became concerned in 1997 that its existing enterprise wide network capacity was rapidly approaching maximization. Specifically, the network's bandwidth—the amount of data that can be transmitted through a given communications circuit in a fixed amount of time—could only handle one and one-half billion shares per day. EWN I was expected to reach maximum circuit capacity during the second quarter of 1999.⁷ To avoid the potential for any disruption to the Nasdaq market, Nasdaq contracted in late 1997 with MCI Communications Corporation ("MCI") to build a new network—EWN II—to accommodate increased usage and provide increased circuit capacity.

According to Nasdaq, EWN II is a significant improvement over EWN I.

⁵ NWII provides a windows-based environment and several data management facilities not previously available in Nasdaq's former (pre-1994) workstation service.

⁶ When Nasdaq installed EWN I, Nasdaq's average daily share volume (for 1994) was 295 million and projections showed that the average daily share volume for 1997 would be 520 million. In 1997, however, average daily share volume was 650 million.

⁷ Similar to any other private network, EWN I was designed to have a maximum circuit capacity (i.e., 2,100 circuits).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See SR-NASD-00-73 and SR-NASD-00-79.

⁴ Securities Exchange Act Release No. 43768 (December 22, 2000), 66 FR 824 (January 4, 2001.)

Among other things, the system is fully scaleable and twice as fast as EWN I. The network was originally built with a 128 kilobit ("kb") data stream feed speed scaleable up to T1 speed (1544 kilobits) levels. Nasdaq began converting subscribers to EWN II in 1998 and completed the conversion in 1999. In conjunction with the conversion, the SEC approved fee increases in 1998 relating to EWN II.⁸

Since that time, Nasdaq share volume has continued to increase dramatically. The highest average daily share volume for a month in 2000 was 2.25 billion shares, compared to 1.44 billion in 1999, and less than 1 billion in 1998. The highest peak share volume day in 2000 was 2.88 billion shares, compared to 1.78 billion in 1999, and 1.26 billion in 1998. The highest actual cumulative share volume for a month occurred three times in 2000 at over 40 billion shares, compared to over 30 billion in 1999, and almost 20 billion in 1998. In March 2000, share volume increased by over 103% compared to March 1999. In April 2000, the peak share volume increased by over 103% compared to April 1999.

To accommodate these increases, Nasdaq expanded the EWN II bandwidth from 128 kb to 192 kb in October 2000. The expended bandwidth also gives Nasdaq the ability to support new products as they are introduced and future trading applications that will be developed. As a result of expansion to a 192 kb bandwidth, the fees that WorldCom⁹ charges Nasdaq have increased by \$375 per month per circuit. Nasdaq proposes to pass on these costs to subscribers for the billing period covered by December 1, 2000 through February 28, 2001.

In order to accommodate additional increases in volume expected to accompany decimalization, Nasdaq will expand EWN II bandwidth to 256kb, and consequently, the fees that WorldCom charges Nasdaq will increase by an additional \$160 per month per circuit. As of December 2000, Nasdaq projects that decimalization in penny increments will significantly increase the number of quote updates, such that on high volume days, a 192 kb bandwidth would be inadequate to support quote traffic. Therefore, Nasdaq proposes to pass on the costs associated with the increase to a 256 kb bandwidth effective March 1, 2001.

Under the proposal, the fee charged to a subscriber for an SDP could increase

from \$1,500 per month for each server to \$1,875 per month for December 2000 through February 2001, and then to \$2,035 per month, beginning March 1, 2001. The charge for an additional circuit would increase from \$2,700 per month to \$3,075 per month from December 2000 through February 2001, and then increase again on March 1, 2001 to \$3,235 per month.¹⁰

Although NASD Rule 7010(f)(2) generally applies to both members and non-member subscribers to NWII service, this filing will only effect a change to the fees charged to those subscribers who are not NASD members. As noted above, Nasdaq submitted separate rule filings to impose the proposed new fees on NASD members.

1. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(5) of the Act,¹¹ which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. The proposed fees, which will only apply to those who utilize NWII service, simply pass on the costs associated with increasing the capacity of EWN II to keep pace with volume increases. Ensuring adequate capacity is absolutely essential to protecting the integrity of the Nasdaq market, maintaining the confidence of the investing public, and preparing for decimalization.

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.

¹⁰ As noted above, a T1 circuit supports up to six SDPs, and an SDP supports up to eight PDs. A subscriber will be subject to the additional circuit charge when the subscriber has not maximized capacity on its SDPs by placing eight PDs and/or API servers on an SDP; in such case, the NASD/Nasdaq will charge the additional circuit charge for those "underutilized" SDPs (the difference between the number of SDPs a subscriber has and the number of SDPs the subscriber would need to support its PDs and/or API servers, assuming an eight-to-one ratio). A subscriber also will be subject to the additional circuit charge when the subscriber has not maximized capacity on its T1 circuits by placing six SDPs on a T1 circuit. This pricing structure encourages subscribers to maximize circuit capacity and is aimed at preventing the premature exhaustion of such capacity.

¹¹ 15 U.S.C. 78o-3(b)(5).

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NASD-01-11 and should be submitted by March 15, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed the Nasdaq's proposed rule change and finds, for the reasons set forth below, that the proposal is consistent with the requirements of section 15A of the Act¹² and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with section 15A(b)(5) of the Act.¹³ Section 15A(b)(5) requires that the rules of a registered securities association provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls. The above fee increases proposed by Nasdaq pass on the costs associated with increasing the capacity of EWN II to users of the NWII service. The Commission believes that such a fee increase, necessitated by recent system volume increases is a reasonable means by which Nasdaq

¹² 15 U.S.C. 78o-3.

¹³ 15 U.S.C. 78o-3(b)(5).

⁸ See Securities Exchange Act Rel. Nos. 40434 (September 11, 1998), 63 FR 49937, and 40716 (December 2, 1998), 63 FR 66619.

⁹ MCI and WorldCom merged in September 1998.

intends to ensure adequate capacity of its EWN II system.

Nasdaq has requested that the Commission approve this proposed rule change on an accelerated basis. Nasdaq believes that accelerated approval of this proposal is necessary to ensure that the costs associated with the expansion of its network are allocated uniformly among all NWII subscriber, regardless of whether they are members or non-members. The Commission finds good cause for approving the proposed rule change (SR-NASD-01-11) prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** in that non-members have been on notice since October 2000 that Nasdaq was proposing to pass along the additional costs as described above and no comments were received by the Commission on SR-NASD-00-74.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-NASD-01-11) is hereby approved on an accelerated basis. For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-4355 Filed 2-21-01; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9K78]

State of Florida

Citrus County and the contiguous counties of Hernando, Levy, Marion and Sumter in the State of Florida constitute an economic injury disaster loan area as a result of freezing temperatures beginning in December 2000 and continuing. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on November 13, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: February 13, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01-4383 Filed 2-21-01; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 3578]

Language and Cultural Enhancement Program; Request for Grant Proposals

AGENCY: Bureau of Educational and Cultural Affairs; State.

SUMMARY: The Office of Citizen Exchanges, Youth Programs Division of the Bureau of Educational and Cultural Affairs announces an open competition for a Language and Cultural Enhancement Program. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to conduct a four-week homestay-based, English Language and Cultural Enrichment program from mid-July to mid-August, 2001 for 50 students from the New Independent States (NIS) of the former Soviet Union selected for the Freedom Support Act (FSA) Future Leaders Exchange (FLEX) program. Approximately 15 of the participants will be students with physical disabilities who were specially recruited and selected. The remaining 35 students will be from more isolated regions of the NIS, where there is less opportunity for quality English instruction. The purpose of the program is to raise the English capability of these students to the level where they are able to attend regular classes when their academic program starts in the fall. Additionally, this program will ease the acculturation process when students transit to their permanent host families and communities. Only one grant will be awarded. Funds requested for this project may not exceed \$100,000.

Program Information

Objectives: To prepare a select group of students with special needs to attend school in the fall and perform at a level closer to that of those FSA/FLEX students who make up the majority of the program finalists. To provide students with cultural tools and strategies that will foster a successful exchange experience.

Background: Academic year 2001/2002 will be the ninth year of the FSA/FLEX program, which now includes over 8,000 alumni. This component of the NIS Secondary School Initiative was originally authorized under the FREEDOM Support Act of 1992 and is

funded by annual allocations from the Foreign Operations and Department of State appropriations. The goals of the program are to promote mutual understanding and foster a relationship between the people of the NIS and the U.S.; assist the successor generation of the NIS to develop the qualities it will need to lead in the transformation of those countries in the 21st century; and to promote democratic values and civic responsibility by giving NIS youth the opportunity to live in American society for an academic year.

During the program's early years, there was concern that students from the more remote regions of the NIS might be underrepresented because the lack of English competence in those regions could prevent applicants from meeting the rigorous English language requirements of the FLEX recruitment process, including attaining a reasonable score on the Secondary Level English Proficiency (SLEP) examination. To address this concern, a pre-academic year English language enrichment program was developed so that some students from the remote areas could be selected whose SLEP scores were slightly lower than average. In 1996, the FLEX program added a component incorporating students with disabilities, who do have a need for some special language and cultural training before initiating their academic year program. The enhancement program for which proposals are being solicited here is in support of both groups of students.

The essential components of the enhancement program are:

- A four-week course of study in English, approximately 5.5 hours a day, to build on the language skills that the students already have.
- Programming that builds on cultural issues that will have been introduced at the pre-departure orientation for all FSA FLEX students.
- Orientation programming that addresses the special needs of the students with disabilities and their unique adjustment issues.
- Accommodation with volunteer host families for the period of the workshop.
- Preparing the students for the transition to their permanent host families and communities.

Other Components: Two organizations have already been awarded grants to perform the following functions: recruitment and selection of all FLEX students; preparation of cross-cultural materials; pre-departure orientation; international travel from home to host community and return; facilitation of ongoing communication between the natural parents and

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

placement organizations, as needed; maintenance of a student database and provision of data to Department of State; and ongoing follow-up with alumni upon their return to the NIS.

Additionally, 17 "placement organizations" have been selected through a grants competition to place the 2001–2002 FSA FLEX students in schools and homestays for the academic year, to monitor their progress, and to conduct program-related cultural enrichment activities. The organization selected for the Language and Cultural Enhancement Program will be asked to interact with the placement organizations to ensure the students' smooth transition from this pre-academic training to their permanent placements.

Guidelines: Applicants should consult the Project Objectives Goals and Implementation (POGI) guidelines for a detailed statement of work. The program must take place from mid-July to mid-August, 2001. The venue for the program should be one with minor distractions to enable students to focus on the coursework and experience life in a typical American family and community. It should be conducive to a smooth transition to the students' permanent placements. Whenever possible, the coursework should have a forward-focus that provides opportunities for students to view situations in the context of the host family and community to which they'll be going, rather than the LCE host family with whom they are staying only for the duration of this special program. The region in which the LCE program is taking place should also have resources that can be drawn upon for cultural enrichment. Students with disabilities will need to be carefully assessed by someone with expertise in working with persons with disabilities. This individual(s) should also provide support and serve as a resource on disabilities for the LCE teachers, as well as the students, during the duration of the program. At all times, reasonable accommodations must be provided, as needed, for all participants with disabilities. FLEX participants travel on J–1 visas issued by the Department of State using a government program number. The students are covered by the health and accident insurance policies used by their placement organizations. The grantee organization will acknowledge its responsibility to coordinate with the appropriate organization(s) any time medical treatment is needed for the duration of the students' participation in the enhancement program.

Applicants may assume that grant activity will begin by May 1, 2001. Programs must comply with J–1 visa regulations. Please refer to the Solicitation Package for further information.

Budget Guidelines: Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to \$60,000. The Bureau anticipates awarding one grant in the amount of \$100,000 to support program and administrative costs required to implement this program.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. See POGI for allowable costs for the program. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFP should reference the above title and number—ECA/PE/C/PY–01–36

FOR FURTHER INFORMATION, CONTACT: Youth Programs Division, ECA/PE/C/PY, Room 568, U.S. Department of State, 301 4th Street, S.W., Washington, D.C. 20547, tel. (202) 619–6299, fax (202) 619–5311, e-mail daronson@pd.state.gov to request a Solicitation Package.

The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Diana Aronson on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's website at <http://exchanges.state.gov/education/rfps>. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Monday, March 29, 2001.

Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and seven copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref: ECA/PE/C/PY–01–36, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as other Bureau officers, where appropriate. Eligible proposals will be forwarded to panels of Department of State officers for advisory review. Proposals may also be reviewed

by the Office of the Legal Adviser or by other Bureau elements. Final funding decisions are at the discretion of the Department of State's Acting Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. Integration of language and culture components should adhere to stated objectives of this project.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above. Refer to POGI regarding elements that should be included in a calendar of activities/timetable.

3. *Ability to achieve program objectives:* Objectives should be measurable, tangible and flexible. Proposals should clearly demonstrate how the organization will meet the program's objectives and plan.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of staff and speakers, program venue, host families) and program content (curriculum, orientation and wrap-up sessions, program meetings, and resource materials).

5. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Coordinator responsible for curriculum, materials development and instruction should demonstrate relevant ESL/U.S. culture teaching experience and qualifications.

6. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful language/culture programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

7. *Project Evaluation:* Proposals should include a plan to evaluate the program's success, both as the activities unfold and at the end of the program. A draft survey questionnaire, tests, or other techniques plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicant will be expected to submit a final report after project is concluded.

8. *Cost-effectiveness/ Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation appropriating funds annually for Department of State's exchange programs.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by

Congress, allocated and committed through internal Bureau procedures.

Dated: February 12, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01-4396 Filed 2-21-01; 8:45 am]

BILLING CODE 4710-11-P

DEPARTMENT OF STATE

[Public Notice #3547]

Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union; Notice of Meeting

The Department of State announces that the Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII) will convene on Thursday, April 19, 2001, beginning at 10 a.m. in Room 1105, U.S. Department of State, 2201 C Street, NW., Washington, DC.

The Advisory Committee will recommend grant recipients for the FY 2001 competition of the Program for the Study of Eastern Europe and the Independent States of the Former Soviet Union in connection with the "Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983, as amended." The agenda will include opening statements by the Chairman and members of the Committee and, within the Committee, discussion, approval, and recommendation that the Department of State negotiate grant agreements with certain "national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the independent states of the former Soviet Union," based on the guidelines contained in the call for applications published in the **Federal Register** on November 14, 2000. Following committee deliberation, interested members of the public may make oral statements concerning the Title VIII program in general.

This meeting will be open to the public; however, attendance will be limited to the seating available. Entry into the Department of State building is controlled and must be arranged in advance of the meeting. Those planning to attend should notify Temi Johnson, INR/RES, U.S. Department of State, (202) 736-4572 by Monday, April 16, 2001, providing their date of birth, Social Security number, and any requirements for special needs. All attendees must use the 2201 C Street,

NW., entrance to the building. Visitors who arrive without prior notification and without a photo ID will not be admitted.

Dated: February 12, 2001.

W. Kendall Myers,

Executive Director, Advisory Committee for Study of Eastern Europe and the Independent States of the Former Soviet Union, U.S. Department of State.

[FR Doc. 01-4395 Filed 2-21-01; 8:45 am]

BILLING CODE 4710-32-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Services for Trade Policy Matters (ISAC-13)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee on Services will hold a meeting on February 27, 2001, from 9 a.m. to 12 noon. The meeting will be opened to the public from 9 a.m. to 9:45 a.m. and closed to the public from 9:45 a.m. to 12 noon.

DATES: The meeting is scheduled for February 27, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce, Conference Room 6057, located at 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Holderman (202) 482-0345, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (principal contact), or myself on (202) 395-6120.

SUPPLEMENTARY INFORMATION: During the opened portion of the meeting the following topics will be discussed:

- Services Contribution to the United States Economy
- Services Statistics

Christina Sevilla,

Acting Assistant United States Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01-4388 Filed 2-21-01; 8:45 am]

BILLING CODE 3190-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement Number ANM-01-01]

FAA Policy on Use of the "Aircraft Materials Fire Test Handbook"

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of policy statement; request for comments.

SUMMARY: This notice announces an FAA policy applicable to the use of Report DOT/FAA/AR-00/42, "Aircraft Materials Fire Test Handbook." This notice advises the public that the FAA considers the material flammability tests described in the latest version of that document to be the preferred acceptable test methods for showing compliance with the relevant regulations. This notice is necessary to advise the public of FAA policy and give all interested persons an opportunity to present their views on the policy statement.

DATES: Send all comments on this policy statement on or before March 26, 2001.

ADDRESSES: Send all comments on this policy statement to the individual identified under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Jeff Gardlin, Federal Aviation Administration, Transport Airplane Directorate, Airframe/Cabin Safety Branch, ANM-115, 1601 Lind Avenue SW., Renton, WA 98055-4056; telephone (425) 227-2136; fax (425) 227-1320; e-mail: jeff.gardlin@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

You may comment on this policy statement by sending any written data, views, or arguments as you may desire. You should identify the Policy Statement Number ANM-01-01 on your comments, and submit your comments, in duplicate, to the address indicated above. The Transport Airplane Directorate (Transport Standards Staff) will consider all communications received on or before the closing date for comments.

Discussion

The Original Version of the Handbook

In September 1990, the FAA published Report DOT/FAA/CT-99/15, "Aircraft Materials Fire Test Handbook" (referred to throughout this notice as "the Handbook"). The Boeing Company, with the assistance of the former McDonnell Douglas Aircraft Company,

developed the Handbook under contract to the FAA.

The 1990 version of the Handbook consisted of chapters outlining in detail the various material flammability tests that Boeing and McDonnell Douglas had used to show compliance with the FAA material flammability regulations. Those specific regulations in Title 14, Code of Federal Regulations (CFR), part 25, are:

§ 25.853 ("Compartment interiors"),
§ 25.855 ("Cargo and baggage compartments"),

§ 25.857 ("Cargo compartment classification"),

§ 25.858 ("Cargo compartment fire detection systems"), and

§ 25.869 ("Fire protection: systems").

At the time of its original publication, the Handbook contained test methods that represented acceptable, but not necessarily the only, methods to show compliance with those regulations. In addition, the Handbook contained other chapters with general information on flammability testing of aircraft material, such as where in the regulations to find requirements, the location of international contacts, and a list of various fire test laboratories.

Modifications to Test Methods in the Handbook

Since the original publication of the Handbook, the FAA has relied on the International Aircraft Materials Fire Test Working Group (IAMFTWG) to review the test methods and advise on areas needing possible revision. The IAMFTWG consists of experts in the materials and fire testing specialties who help refine and support the development of test methods used in aviation. The members of the IAMFTWG include representatives from the airlines, airframe manufacturers, material suppliers, and regulatory authorities, among others. A representative from the FAA's Technical Center chairs this group. The IAMFTWG is a participative technical peer group that contributes to FAA research, but its activities are not regulatory in nature.

Before any modifications to the test methods described in the Handbook have been incorporated, the IAMFTWG has provided data supporting such modifications, and the FAA has reviewed and accepted the data. In addition, the FAA's Transport Airplane Directorate (Transport Standards Staff) has determined whether the modified test methods complied with the applicable regulations.

The following is an example of why and how this procedure has been used in the past to modify and improve test methods.

Example of Why and How a Test Method is Modified

Several IAMFTWG representatives from test laboratories reported problems with testing some new, very fire-resistant panels in the rate-of-heat-release testing apparatus. The test apparatus used three pilot flames, located above the sample material, to ignite any combustible gas by-products emitted by the sample during testing. The problem with this test arose when gases emanating from the samples were extinguishing the upper pilot flames in the test chamber, thus voiding the tests. Consequently, materials that might improve fire safety could not be approved for use because the fire retardant mechanism that improved their flammability also extinguished the pilot flames in the required test method.

After an extensive test program, certain modifications were made to the upper pilot burner in the test apparatus to improve the test:

- The number of pilot flames was increased from 3 to 13, with one outside the flame plume.
- The size of the pilot flames was decreased to minimize the possible heating effect of the increased number of pilots.

Testing showed that this new pilot configuration solved the problem. That is, when a pilot flame would extinguish, it was immediately re-ignited by an adjacent flame without compromising the results of the test. Subsequent testing showed that there was no difference in test results between the 3- and 13-hole pilot configurations for materials that *do not* extinguish the pilot flames. Thus, the Transport Airplane Directorate (Transport Standards Staff) determined that the use of the 13-hole pilot burner would produce results equivalent to the 3-hole burner and, therefore, was an acceptable method to show compliance with the applicable regulations.

Discussion of the Latest Revised Handbook

The FAA has made public the various accepted modifications to the original test methods (outlined in the 1990 version of the Handbook) through drafts of a revised Handbook that have been continually updated. The recently published revised Handbook, dated April 2000, documents these changes to the test methods.

There are four types of chapters in this latest revised version of the Handbook:

1. Required test methods, non-propulsion related (Chapters 1–10, and 15);

2. Required test methods, propulsion related (Chapters 11–14);

3. Non-required test methods (Chapters 18–22); and

4. General information (Appendix A through G).

The *required test methods (non-propulsion)*, as described in Chapters 1 through 10 and Chapter 15, are acceptable methods for showing compliance with, or provide an equivalent level of safety to, the required regulations as outlined in the chapter.

The *required test methods (propulsion)*, as described in Chapters 11 through 14, are not addressed in this policy statement.

The *non-required test methods* described in Chapters 18 through 22 are included in the Handbook for use as test standards in applications where there currently are no requirements. Since these test methods are not required, no process is required for their modification. Therefore, the FAA will update these chapters as needed in the electronic version of the Handbook located at <http://www.fire.tc.faa.gov/index.html?handbook.stm&1>.

The *general information chapters* (Appendices A through G) provide assistance to applicants and test laboratories as a general guide to the certification process. These chapters are not all-inclusive and can be viewed simply as a starting point. The FAA will update the information in these chapters as needed in the electronic version of the handbook.

Preferred Test Methods

As of the date of this policy statement, the FAA considers the following test methods described in Chapters 1 through 10 and Chapter 15 of the "Aircraft Materials Fire Test Handbook," dated April 2000, the preferred test methods to show compliance with, or demonstrate an equivalent level of safety to, the applicable material flammability regulations:

Chapter 1—the 60-second and 12-second Vertical Bunsen Burner Test specified in § 25.853, § 25.858, and Appendix F of part 25.

Chapter 2—the 30-second 45-degree Bunsen Burner Test specified in § 25.857 and Appendix F of part 25.

Chapter 3—the 15-second horizontal Bunsen Burner Test specified in § 25.853 and Appendix F of part 25.

Chapter 4—the 30-second 60-degree Bunsen Burner Wire Test specified in § 25.869 and Appendix F of part 25.

Chapter 5—the Rate of Heat Release Test specified in § 25.853 and Appendix F of part 25.

Chapter 6—the Smoke Test for Cabin Materials specified in § 25.853 and Appendix F of part 25.

Chapter 7—the Oil Burner Test for Seat Cushions specified in § 25.853.

Chapter 8—the Oil Burner Test for Cargo Liners specified in § 25.855 and Appendix F of part 25.

Chapter 9—the Radiant Heat Test for Evacuation Slides, Ramps, and Rafts specified in Technical Standard Order (TSO)-C69C ("Emergency Evacuation Slides, Ramps, Ramp/Slides, and Slide/Rafts").

Chapter 10—the Fire Containment Test of Waste Stowage Compartments to demonstrate compliance with § 25.853.

Chapter 15—the Oil Burner Test for Repaired Cargo Compartment Liners to demonstrate continued compliance with § 25.855.

Although these test methods cannot—and do not—supersede any method specified by and described in the regulations, they represent an acceptable means of compliance with the relevant regulation and, in some cases, a preferred option over the specified method.

Section 25.853 includes a provision for use of "other approved equivalent methods," when referring to the test procedures described in Appendix F of part 25. The FAA has accepted the test methods described in Chapters 1 through 10 and Chapter 15 of the Handbook as providing an equivalent level of safety to the test methods specified in Appendix F of part 25. In addition, these test methods are more repeatable, more reproducible, and easier to conduct.

The FAA encourages applicants to use the test methods outlined in Chapters 1 through 10 and Chapter 15 of the Handbook. However, the FAA will consider other alternative methods that demonstrate an equivalent level of safety on a case-by-case basis along with the necessary supportive data.

Process for Modifying the Preferred Test Methods

New materials and technology may make it necessary to modify the various test methods from time to time in order to address newly identified testing anomalies. In these cases, the FAA requires assurance that such changes do not affect the intended pass/fail criteria of the test (that is, the level of safety provided), but do provide an increase in repeatability, reproducibility, or ease of test conduct.

Changes or modifications to any test method outlined in Chapters 1 through 10 and Chapter 15 will be addressed first through the IAMFTWG. The IAMFTWG will evaluate all suggested

changes, modifications, and supportive data. Only changes that do not adversely affect the intended safety level of the test method (pass/fail level) will be considered.

Fire safety experts within the FAA will first approve the modified test methods before forwarding them to the Transport Airplane Directorate (Transport Standards Staff) for a determination of equivalent level of safety. Only if such a determination is made will the changes or modifications be incorporated into the electronic version of the Handbook (accessible at <http://www.fire.tc.faa.gov/index.html?handbook.stm&1>).

Use of the Test Methods

The FAA will consider the test methods in Chapters 1 through 10 and Chapter 15 of the electronic version of the Handbook to be the most current methods. However, the test methods described in the version of the Handbook dated April 2000, will remain acceptable for showing compliance. The test methods described in the regulations, of course, will also remain acceptable methods of compliance.

The test methods described in the Handbook are intended to be adopted *in total*, if they are used. That is, use of one section of a test method from the Handbook and another section of the test method from Appendix F of part 25 for example, is not covered by this policy statement. If an applicant proposes to use sections from more than one version of a test method to show compliance, the applicant first must obtain approval from the cognizant FAA Aircraft Certification Office. The applicant's requests should be coordinated with the Transport Airplane Directorate (Transport Standards Staff).

Effect of General Statement of Policy

The general policy stated in this document is not intended to establish a binding norm; it does not constitute a new regulation and the FAA would not apply or rely upon it as a regulation. The FAA Aircraft Certification Offices (ACO) that certify transport category

airplanes should generally attempt to follow this policy, when appropriate. However, in determining compliance with certification standards, each ACO has the discretion *not* to apply these guidelines where it determines that they are inappropriate. Applicants should expect that the certificating officials will consider this information when making findings of compliance relevant to new certificate actions. Applicants also may consider the material contained in this policy statement as supplemental to that currently contained in Report DOT/FAA/AR-00/12, "Aircraft Materials Fire Test Handbook," dated April 2000, when developing a means of compliance with the relevant certification standards.

In addition, as with all typical advisory material, this statement of policy identifies one means, but not the only means, of compliance.

Application of Policy Statement

The FAA considers this policy statement an issue for which public comment is appropriate and, therefore, requests comment on it. However, it is the FAA's intention to immediately apply this policy. Resolution of any public comments received will determine how the policy is applied in the long term for future projects.

Issued in Renton, Washington, on February 14, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-4377 Filed 2-21-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33670]

The Indiana Rail Road Company— Operation Exemption—Monon Rail Preservation Corporation

The Indiana Rail Road Company (INRD), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate the property of

the Monon Rail Preservation Corporation, consisting of a line between milepost Q217.67, at Hunters, and milepost Q213.41, at Ellettsville, a distance of 4.26 miles in Monroe County, IN.

Because INRD's projected annual revenues will exceed \$5 million, INRD has certified to the Board on December 26, 2000, that the required notice of the transaction was posted at the workplace of the employees on the affected line on December 20, 2000. See 49 CFR 1150.42(e). According to INRD's certification, the employees on the affected line are not represented by a labor organization and therefore no notice to labor organizations was required. INRD stated in its verified notice that the transaction will become effective on the date of the Board's approval of INRD's operation of the line. The earliest the transaction can be consummated is February 24, 2001 (60 days after INRD's certification to the Board that it had complied with the Board's rule at 49 CFR 1150.42(e)).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33670, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John Broadley, Esq., John H. Broadley & Associates, 1054 31st Street, NW., Suite 200, Washington, DC 20007.

Board decisions and notices are available on our website at <http://www.stb.dot.gov>.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Decided: February 14, 2001.

Vernon A. Williams,

Secretary.

[FR Doc. 01-4390 Filed 2-21-01; 8:45 am]

BILLING CODE 4915-00-P



Federal Register

**Thursday,
February 22, 2001**

Part II

**Environmental Protection
Agency**

**Department of the
Interior**

Fish and Wildlife Service

**Department of
Commerce**

**National Oceanic and Atmospheric
Administration**

**Memorandum of Agreement Between the
Environmental Protection Agency, Fish
and Wildlife Service and National Marine
Fisheries Service Regarding Enhanced
Coordination Under the Clean Water Act
and Endangered Species Act; Notice**

ENVIRONMENTAL PROTECTION AGENCY**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[FRL-6937-6]

Memorandum of Agreement Between the Environmental Protection Agency, Fish and Wildlife Service and National Marine Fisheries Service Regarding Enhanced Coordination Under the Clean Water Act and Endangered Species Act

AGENCIES: Environmental Protection Agency, Fish and Wildlife Service, Department of Interior, and National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency, Fish and Wildlife Service and National Marine Fisheries Service have signed a Memorandum of Agreement (MOA) addressing interagency coordination under the Clean Water Act and Endangered Species Act. This notice discusses comments received on a draft of the MOA published by the Agencies on January 15, 1999, describes the changes we have made to the draft, and publishes the final MOA.

FOR FURTHER INFORMATION CONTACT: Brian Thompson, Standards and Health Protection Division (4305), U.S. EPA, Office of Science and Technology, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 260-3809, thompson.brian@epamail.epa.gov; Margaret Lorenz, Endangered Species Division, National Marine Fisheries Services, 1315 East West Highway, Silver Spring, MD 20910, (301) 713-1401, margaret.lorenz@noaa.gov; or Mary Henry, Division of Environmental Quality, Fish and Wildlife Service, 4401 N. Fairfax, Arlington, VA 22203, (703) 358-2148, mary_henry@fws.gov.

SUPPLEMENTARY INFORMATION: On January 15, 1999, the Environmental Protection Agency (EPA), Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) published for public comment a draft Memorandum of Agreement (MOA) addressing coordination under the Clean Water Act (CWA) and Endangered Species Act (ESA). 64 Fed. Reg. 2742. We have considered all the public comments submitted on the draft MOA, made revisions, and signed a final

version of the document. Today's notice discusses comments we received on the draft MOA, summarizes the changes we have made, and publishes the final MOA.

The MOA is designed to enhance coordination between our agencies so that we can best carry out our responsibilities under the CWA and ESA. In recent years, we have increasingly sought to integrate our programs. For example, EPA now consults with the Services under section 7 of the ESA on EPA's promulgation and approval of water quality standards under section 303(c) of the CWA and approval of State National Pollutant Discharge Elimination System (NPDES) permitting programs under section 402(b). The MOA seeks to enhance the efficiency and effectiveness of consultations on these actions in the future by providing guidance to our regional and field offices and establishing an elevation process to resolve quickly issues that may arise. The MOA also seeks to enhance coordination at the national level by, among other things, establishing a joint national research plan that will prioritize research on the effects of water pollution on endangered and threatened species. We believe that the MOA will help make our work together more productive and timely, to the benefit of endangered and threatened species and the aquatic environment generally, as well as the regulated community and State and Tribal coregulators.

The provisions of the ESA, CWA and our regulations described in the MOA contain legally binding requirements. The MOA itself does not alter, expand, or substitute for those provisions or regulations, nor is it a regulation itself. Thus, it does not impose legally-binding requirements on EPA, States,¹ Tribes,² or the regulated community. Rather, the MOA contains internal procedural guidance to our staff to assist us in carrying out existing legal requirements. Based on experience in implementing the MOA, we may change the MOA in the future.

I. Statutory Background

Section 7 of the ESA imposes substantive and procedural obligations on Federal agencies. Section 7(a)(1) of the ESA requires Federal agencies, in consultation with and with the assistance of the Services, to utilize

¹ For purposes of the MOA, "States" mean States, Territories and Commonwealths that qualify as States for the programs covered by the Agreement.

² For purposes of the MOA, "Tribes" mean those Tribes that are authorized for treatment as States for the programs covered by the Agreement. See CWA 518(e).

their authorities to further the purposes of the ESA by carrying out programs for the conservation of listed threatened and endangered species. Section 7(a)(2) of the ESA states that Federal agencies shall, in consultation with, and with the assistance of the Services, ensure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of habitat that has been designated as critical for the species. Section 7(a)(4) of the ESA also requires that Federal agencies confer with the Services on any agency action that is likely to jeopardize the continued existence of any species proposed for listing, or result in the destruction or adverse modification of proposed critical habitat. Regulations outlining the process for section 7 consultation and conferencing are codified at 50 CFR part 402. The ESA also makes it unlawful for any person to "take" any fish or wildlife species that is listed under the Act. ESA 9(a)(1)(B). "Take" is defined to mean "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in such conduct." 16 U.S.C. 1532(19). However, the Services may provide an exemption to the prohibition on take that is incidental to otherwise legal activity through a statement that is attached to a biological opinion. The incidental take statement specifies the terms and conditions necessary to carry out reasonable and prudent measures that will minimize the incidental take.

EPA's authorities under the water quality standards and NPDES permitting programs are contained in sections 303(c), 304(a) and 402 of the CWA. Under section 303(c), the development of water quality standards is primarily the responsibility of States and Tribes qualified for treatment in the same manner as States, with EPA exercising an oversight role. Water quality standards consist of three components: (1) The designated uses of waters, which can include use for public water supplies, propagation of fish and wildlife, recreational, agricultural, industrial and other uses; (2) water quality criteria, expressed in numeric or narrative form, reflecting the condition of the water body that is necessary to protect its designated use, and (3) an antidegradation policy that protects existing uses and provides a mechanism for maintaining high water quality. States and Tribes are required to review their standards every three years and any revisions or new standards must be submitted to EPA for approval. Section

303(c) contains time frames for EPA to review and either approve or disapprove standards submitted by a State or Tribe, and requires EPA to promulgate Federal standards to supersede disapproved State or Tribal standards. In addition, section 303(c) authorizes EPA to promulgate Federal standards whenever the Administrator determines that such standards are necessary to meet the requirements of the CWA. Regulations implementing section 303(c) are codified at 40 CFR part 131.

Under section 304(a) of the CWA, EPA from time to time publishes recommended water quality criteria that serve as scientific guidance for use by States or Tribes in establishing and revising water quality standards. These criteria are not enforceable requirements, but are recommended criteria levels that States or Tribes may adopt as part of their legally enforceable water quality standards. States or Tribes may adopt other scientifically defensible criteria instead of EPA's recommended criteria (see 40 CFR 131.11(b)).

The NPDES permitting program is established by section 402 of the CWA. Any person that discharges a pollutant (other than dredged or fill material) into waters of the United States from a point source must obtain an NPDES permit. See CWA section 301(a). (Dischargers of dredged or fill material must obtain a permit under section 404 of the CWA from the Army Corps of Engineers or an authorized State.) EPA issues permits under section 402 unless a State or Tribe has been approved by EPA to administer the permitting program. Any NPDES permit must contain limitations to reflect the application of available treatment technologies, as well as any more stringent limitations needed to ensure compliance with water quality standards. CWA 301(b). EPA has promulgated regulations governing the administration of the NPDES program. See 40 CFR parts 122, 124–125.

The CWA authorizes States or Tribes to administer the NPDES program provided the program meets the conditions specified in section 402(b) of the Act and EPA regulations. See 40 CFR part 123. Currently, 43 States and the U.S. Virgin Islands have received approval from EPA to operate the NPDES program. Authorized States and Tribes are required to maintain their programs consistent with minimum statutory and regulatory requirements. When EPA approves State or Tribal authority to administer an NPDES program, EPA maintains oversight responsibility, including the authority to review, comment on and, where a permit is "outside the guidelines and

requirements" of the CWA, object to State or Tribal draft permits. CWA section 402(d)(2). If EPA objects to a State or Tribal permit and the State or Tribe fails to revise the permit to satisfy EPA's objection, the authority to issue the permit is transferred to EPA. Section 402(c) of the CWA authorizes EPA to withdraw the State's or Tribe's permitting authority if EPA determines the program is not being administered in accordance with the Act.

II. Overview of Public Comments

EPA and the Services received comments from individuals, private industry, environmental organizations and other governmental agencies on the draft MOA. We have not attempted below to summarize or address the detailed contents of each of the public comments. We have, however, considered each of the comments in developing the final MOA. We address in this notice the major themes and concerns raised by the public comments.

Many commenters supported the MOA's goal of fostering early input by the Services into decision-making under the CWA standards and permitting programs. These commenters believed integrating the Services early into existing regulatory processes would help ensure species protection issues are addressed effectively and in a timely manner. Many commenters expressed concern, however, that the MOA would increase burdens on States and viewed the MOA as seeking to shift EPA's section 7 consultation responsibilities to States. Some commenters supported our proposed plan to conduct national programmatic consultations on water quality criteria and permit oversight procedures as likely to reduce the redundancy of State-by-State consultation. Others commenters believed that these programmatic consultations would be inappropriate and inconsistent with the requirements of the ESA. Finally, some commenters believed that the MOA failed to focus adequately on EPA's responsibility under section 7(a)(1) of the ESA to utilize its authorities to carry out programs for the conservation of listed species.

We continue to believe that early involvement of the Services in CWA activities is important to ensuring that species protection concerns are addressed effectively in the water quality standards and permitting programs. The Services have substantial expertise that can help improve decision-making by EPA, States and Tribes. Obtaining their expertise early in the regulatory process helps ensure that

their views are meaningfully considered, and that the broadest range of management options are available to ensure the protection of species.

This does not mean, however, that the MOA calls for States and Tribes to "consult" with the Services under section 7 of the ESA, or that burdens in administering their programs will be increased. The MOA cannot, and does not, impose any requirements of section 7 on States and Tribes. Those requirements apply solely to Federal agencies, and EPA continues to be responsible for fulfilling any applicable requirements of section 7 in its administration of the CWA. (While States and Tribes may choose to function as "non-federal representatives" for purposes of informal consultation pursuant to 50 CFR 402.18, the responsibility for compliance with section 7 remains with EPA.)

Moreover, the MOA does not address in any way the obligations of States and Tribes under the CWA or the ESA, other than to note in a few instances requirements of existing laws and regulations. See, e.g., section IX.A. paragraph 2 (noting State/Tribal obligation under EPA CWA regulations to provide copies of draft NPDES permits to the Services). Thus, while the MOA should facilitate greater interaction between the Services and States/Tribes, it does not change the legal requirements that States or Tribes must meet in adopting water quality standards or in issuing NPDES permits, and does not require States or Tribes to perform any information-gathering or other analyses that would not be required under existing legal requirements. Rather, the MOA is intended to enhance communication between the Services, EPA and States/Tribes about how to ensure that water quality standards and NPDES permits will protect endangered and threatened species. In response to comments that the national consultations are inappropriate or inconsistent with the ESA, we will conduct the consultations in accordance with all applicable requirements of the ESA and 50 CFR part 402.

Finally, we agree with the comment that the MOA should put greater emphasis on the development of programs by EPA, in consultation with the Services, for the conservation of listed species under section 7(a)(1) of the ESA. The CWA is a powerful vehicle for improving the quality of the aquatic environment on which many endangered and threatened species depend. EPA's mission under the CWA includes reducing the risks to aquatic

life and wildlife due to water quality degradation. Reducing those risks can also help facilitate the recovery of listed species. While the MOA will help ensure that EPA actions meet the substantive requirements of section 7(a)(2) of the ESA, we believe the MOA should also help identify affirmative steps under section 7(a)(1) of the ESA that EPA can take pursuant to its CWA authorities to facilitate the recovery of listed species. We have made appropriate additions to the MOA in this respect, which are noted in the discussion below.

III. Summary of the Final MOA

We have retained in the final MOA the following basic components of the January 1999 draft MOA: (1) Interagency coordination and elevation; (2) national level activities; (3) oversight of State and Tribal water quality standards; (4) State and Tribal NPDES permitting programs. Each of these is addressed below.

A. Interagency Coordination and Elevation

One of the most important objectives of the MOA is to institutionalize strong working relationships among our regional and field offices who have day-to-day responsibility for administering our programs. Ongoing planning and collaboration at the regional/field level are essential to carrying out our programs effectively. Therefore, the MOA directs our staff to establish local/regional review teams that will meet periodically to identify upcoming priorities and workload requirements and generally ensure close coordination on the full range of activities involving water quality and endangered/threatened species protection. These teams will also develop procedures for working with States and Tribes on these matters. We have added language to the MOA stating that the regional review teams should also provide assistance to the interagency oversight panel in conducting a proactive conservation review that will identify ways in which EPA can more fully utilize its authorities for the conservation of listed species.

We also believe that effective coordination among senior managers at the regional level is vital to maintaining effective working relationships. Therefore, in addition to directing regional staff and day-to-day managers to meet on a regular basis through the regional review teams, we have added to the MOA a directive that EPA and Service regional senior managers (e.g., Regional Administrator or Division Director from EPA, Regional Director or Assistant Regional Director from the

FWS, Assistant Regional Administrator for NMFS) meet at least annually to review on a programmatic basis ongoing work between our agencies. These meetings will focus on establishing overall priorities, assessing resource needs and providing direction to mid-level managers and staff.

The draft MOA also included a procedure for elevating issues that may arise among our regional and field offices. We have included the elevation procedure in the final MOA with certain revisions. First, one commenter believed that the proposed elevation process applied only to disagreements that may arise in formal section 7 consultations, and requested clarification of the scope of issues addressed by the elevation procedure. We did not intend to use the elevation process solely for issues arising in formal section 7 consultations. It is available to resolve disagreements arising in formal or informal consultations, or other areas of cooperation, such as EPA oversight of State/Tribal NPDES permits. Moreover, because the elevation procedure is generic, we intend to make it available for any issues arising with regard to section 7 consultations on EPA actions under the CWA in areas not specifically addressed by the MOA. The purpose of the elevation procedure is to help us reach informed and timely decisions, and making this procedure available whenever we are engaged in the section 7 process with regard to EPA actions under the CWA will help achieve this objective. The procedures may be used to review matters such as the content or supporting analyses of biological evaluations prepared by EPA or biological opinions prepared by the Services. However, the elevation process does not impair in any way the ultimate authority of EPA or the Services to issue decisions or render determinations that are within each agency's authority under the CWA and the ESA.

Also, to make the elevation process more workable, we have reduced the number of steps involved in the elevation at the regional level. In the final MOA, the first step in any elevation will be to raise an issue to our regional directors/administrators, rather than requiring an intermediate step of elevating the issue to mid-level managers. This revision recognizes that mid-level managers are typically involved in issues on an ongoing basis, and that these managers should seek to resolve issues informally if possible. By eliminating a step in the elevation process, the final MOA will also help speed resolution of issues should elevation be necessary. Much of the

MOA is designed, however, to enhance early and ongoing collaboration among our agencies. We continue to believe that issues should be resolved at the lowest levels possible, and enhanced coordination should reduce the likelihood that elevation will be needed.

Some commenters suggested that the results of decisions in an elevation be documented so that they could serve as guidance in other similar circumstances. The agencies will memorialize the results of the elevation in writing where determined to be appropriate (e.g., where the results of the elevation would provide useful guidance to agency staff).

We have also retained in the final MOA an oversight panel that will consist of regional and headquarters personnel to provide oversight and coordination on all aspects of the agreement. In addition, we have amended the draft MOA to specify that the oversight panel, with input from the regional review teams will conduct a "proactive conservation review" (see section V(A)(3)(7)) under section 7(a)(1) of the ESA regarding EPA's authorities and identify ways that EPA can more fully utilize those authorities to carry out programs for the conservation of listed species.

B. National Level Activities

The draft MOA included four national level activities to help better integrate our programs: (1) A water quality standards rulemaking; (2) development of new water quality criteria methodological guidelines; (3) national consultations on EPA's section 304(a) aquatic life water quality criteria recommendations and on procedures to ensure State/Tribal NPDES permits protect listed species, and (4) a joint national research and data gathering plan. The final MOA retains these components basically as contained in the draft MOA, with some changes, in particular with regard to the national consultations, and those changes, as well as relevant public comments, are discussed below.

1. Water Quality Standards Rulemaking

The draft MOA indicated that EPA would propose to amend EPA's water quality standards regulations to provide that water quality shall be not likely to jeopardize the continued existence of a listed species. We stated that such a rule would essentially codify existing protection for endangered and threatened species under the CWA since water quality that is so poor it would likely jeopardize a listed species or destroy or adversely modify critical habitat fails to meet the fundamental requirements of the CWA.

Several commenters believed that this rule would be inconsistent with the CWA because it would remove the flexibility of States and Tribes under section 303(c)(2)(A) to establish use designations based on the uses that are attainable in the waterbody. EPA and the Services do not believe that flexibility will be removed from the States and Tribes to change use designations with use attainability analyses. Any changes in use designations must comply with the long-standing requirements in 40 CFR part 131. Further, any changes in use designations must be approved by EPA under section 303(c) of the CWA. These approvals are subject to the requirements of section 7 of the ESA. With the early coordination envisioned by the Services and EPA to address listed species needs during triennial reviews, more species-specific and site specific information and expertise will complement defensible use attainability analyses performed by the States and Tribes. Justifiable changes can be still made after taking into account the needs of listed species.

2. Development of New Water Quality Criteria Methodological Guidelines

The final MOA provides that the Services will participate in EPA's development of new methodological guidelines for the development of aquatic life criteria under section 304(a) of the CWA. We received no significant comments on this provision, which is unchanged from the January 1999 draft MOA.

3. National Consultations

The draft MOA described national consultations that EPA and the Services intended to undertake regarding EPA's water quality criteria for the protection of aquatic life that EPA has published under section 304(a) of the CWA, and on procedures in the MOA to ensure that State/Tribal NPDES permits will protect listed species. As discussed further below, we have decided to delete the provision for a national permits consultation from the MOA, and have modified in certain respects the discussion of the national criteria consultation.

With regard to the national permits consultation some commenters questioned whether the granting of an exemption from incidental take prohibitions would be appropriate through an incidental take statement issued at the national level without consideration of site-specific circumstances. Other commenters were unclear as to the effect that such a consultation would have on existing

state NPDES programs, and were concerned that the agencies not "reopen" those programs through the national consultation.

We have considered these comments and have had further interagency discussions of the merits of this programmatic consultation on the permitting procedures. We have decided to delete the discussion of that consultation from the final MOA and, at this time, do not intend to undertake such a consultation on permitting procedures. Our decision not to conduct a national programmatic consultation does not affect our commitment to follow the procedures in section IX of the MOA for coordination with regard to oversight of State/Tribal NPDES permits. Those procedures are designed to share information that will assist permitting authorities in meeting CWA requirements, including the protection of listed species. They describe those circumstances where EPA would use its oversight authorities to ensure these requirements and objectives are met.

EPA's current practice is to consult with the Services where EPA determines that approval of a State's or Tribe's application to administer the NPDES program may affect federally listed species. We will continue to conduct such consultations on a case-by-case basis. Where formal consultation is undertaken, a biological opinion issued by the Service(s) would include an incidental take statement in accordance with section 7 of the ESA and 50 CFR Part 402. In addition, as discussed elsewhere in today's notice and in the final MOA, EPA consults with the Services regarding its approval of new and revised water quality standards that may affect listed species, and any biological opinion issued as a result of such a consultation would include an incidental take statement in accordance with section 7 of the ESA and 50 CFR Part 402.

With regard to the national criteria consultations, States generally supported our undertaking such consultations as it would streamline the water quality standards adoption and approval process at the State level, and avoid duplication of effort involved in consulting on a State-by-State basis. Other commenters stated that EPA should not consult on the section 304(a) criteria because they are not an agency "action" under section 7. Still others believed that national consultations on aquatic life criteria would not be based on the "best available information" as required by section 7 of the ESA. EPA and the Services have agreed, however, that it is appropriate to conduct these consultations pursuant to section 7(a)(2)

for 304(a) aquatic life criteria to ensure the protection of listed species. Moreover, we fully intend to base consultations on the "best available information," as required by section 7, and do not believe that this requirement precludes us from conducting the consultations on a national basis.

Some commenters contended that we should not consult on existing aquatic life criteria, since they are based on old methodologies and that EPA should consult instead only on new criteria. We believe that consulting on EPA's existing section 304(a) aquatic life criteria is warranted because these criteria have been adopted by many States in their water quality standards, and this consultation will assist us in determining whether these criteria are protective of endangered and threatened species. EPA will consider the results of the consultation in deciding whether more stringent criteria would be warranted to protect certain endangered or threatened species. EPA also intends to integrate the national consultation process with ongoing revisions to existing criteria that are underway, as well the development of new criteria.

Commenters raised the additional concern that a national consultation was likely to lead to the development of overly stringent water quality criteria and that consultations should, therefore, continue to take place on a State level. We disagree, since EPA would revise the criteria if it determines that more stringent criteria were in fact needed to protect endangered and threatened species, regardless of whether the consultation occurred on a national or State/Tribal level. Moreover, revisions to the criteria guidance could be targeted to the waters within the geographic range of species of concern (e.g., through recommendations to adopt site-specific criteria). In this way, other waters not needing the additional level of protection would not be affected by the revisions.

Other commenters raised the question whether, under section 7(d) of the ESA, EPA and States could continue to implement existing CWA requirements while the national consultations are ongoing. Section 7(d) prohibits federal agencies and a permit or license applicant, after initiation of consultation, from making an irretrievable or irrevocable commitment of resources that would preclude the formulation or implementation of alternatives identified in the consultation required to meet the requirements of section 7(a)(2) of the ESA. We disagree that the initiation of the national consultations on criteria would limit the ability of EPA, States or

Tribes to continue implementing existing requirements under the CWA. The water quality criteria guidance does not involve any irrevocable or irrevocable commitment of resources. The criteria guidance can, and will, be revised if as a result of the consultations a determination is made that revisions are necessary to comply with section 7(a)(2) of the ESA. Moreover, if in the future EPA proposes to undertake an action that is covered by the national consultations prior to the conclusion of these consultations (e.g., approval or promulgation of an aquatic life criteria identical to or more stringent than EPA's guidance value), EPA will make a determination of compliance with section 7(d) at that time based on the particular facts, recognizing that EPA retains the authority to require revisions to water quality and standards, and promulgate them if necessary. Finally, the aquatic life criteria guidance is fundamentally designed to ensure protection of the aquatic environment and we do not believe that section 7(d) of the ESA would impede their implementation pending completion of consultation.

Since the draft of the MOA was published in January 1999, EPA and the Services have undertaken a series of meetings that have resulted in a broad agreement on the scientific and technical procedures for conducting the consultations. These meetings have led to a realistic assessment of the resources and time necessary to conduct the consultation, and to an understanding that the consultation should be phased and that priorities should be set to deal with the most important pollutants and issues first. As a result, the final MOA states that the consultation will be completed in an expedited manner, rather than the less flexible strict timetable of eighteen months contained in the draft MOA.

4. Joint National Research Plan

The final MOA retains the draft MOA's provisions for the Agencies to establish a joint national research and data gathering plan for prioritizing and funding research on the effect of water pollution on listed species. We received no significant comments on this portion of the MOA, which is unchanged from the 1999 draft.

C. Oversight of State and Tribal Water Quality Standards

We did not receive extensive comments on the provisions in the MOA related to oversight of State/Tribal water quality standards. Some commenters contended that EPA approval of water quality standards is

not subject to section 7 of the ESA because EPA approval is non-discretionary. EPA disagrees, since our decision as to whether a particular standard meets the requirements of the CWA involves the exercise of considerable judgment. We believe that where approval of new or revised standards may have an effect on a listed species or designated critical habitat, consultation under section 7(a)(2) is required. Other commenters argued that EPA should consult not only on new and revised standards, but also on existing water quality standards. EPA and the Services have agreed that where information indicates an existing standard is not adequate to avoid jeopardizing listed species, or destroying or adversely modifying designated critical habitat, EPA will work with the State/Tribe to obtain revisions in the standard or, if necessary, revise the standards through the promulgation of federal water quality standards under section 303(c)(4)(B) of the CWA. Some commenters said that it is not appropriate for EPA to compel a State to reopen an existing water quality standard to avoid "jeopardy" because that threshold is not contained in the CWA, and nothing in the CWA requires that water quality be improved whenever doing so would benefit listed species. Again, water-dependent endangered and threatened species are an important component of the aquatic environment that the CWA is designed to protect, and steps to ensure the protection of those species are well within the scope of the CWA.

After consideration of public comments on this aspect of the MOA, we have decided to retain the language of the 1999 draft MOA with no major substantive changes.

D. State/Tribal Permitting Programs

The final MOA addresses the procedures that we will follow in overseeing the operation of State/Tribal NPDES permits to ensure that listed species and critical habitats are protected. Several commenters raised concerns that the coordination process described in the MOA was equivalent to the section 7 consultation process. This is incorrect. Section 7 consultations are governed by the specific procedures contained in 50 CFR part 402. The coordination procedures in the MOA do not track the consultation process. Rather, the coordination procedures simply outline the interaction that we envision between EPA, the Services and the State/Tribe should a particular permit raise issues of concern for listed species. The MOA also makes clear that

EPA's oversight of State/Tribal permits will continue to be governed by EPA's CWA authorities. For example, EPA may only object to a permit that is "outside the guidelines and requirements" of the CWA as provided in section 402(d) of the CWA. We are confident that EPA's CWA authorities are sufficiently broad and the MOA sufficiently flexible to address the broad range of situations that arise in the NPDES program.

Some commenters expressed concerns that the permit coordination procedures not be used to "force" States and Tribes to undertake activities not otherwise required by the CWA. As stated previously, the MOA only provides internal procedural guidance for EPA and the Services and does not impose any requirements on States and Tribes. States and Tribes are specifically directed by current EPA regulations under the CWA to provide the Services with copies of draft NPDES permits, and they must consider and respond to any significant comments by any party, including comments provided by the Services. See 40 CFR §§ 124.10(c)(iv) and (e); 124.11; 124.17. See also 40 CFR § 124.59(b) and (c) (addressing consideration of Service comments and coordination between the permitting authority and the Services). The MOA does not augment these existing obligations, but is intended to facilitate the delivery of comments by the Services and EPA to States and Tribes, and the consideration of those comments in the permitting process.

One commenter argued that the MOA was inconsistent with the decision in *AFPA v. EPA* 137 F.3d 291 (5th Cir. 1998) because, while it does not place conditions on approval of State NPDES programs, it nonetheless places conditions on "approval" of State permits. This contention is incorrect. First, EPA does not "approve" State/Tribal permits, but rather retains discretionary authority to comment upon and object to permits on a case-by-case basis. The MOA does not change the criteria under which EPA currently exercises that authority—i.e., whether a permit meets applicable CWA requirements—but simply ensures that EPA has the full benefit of the Services' views on potential impacts to Federally listed species and designated critical habitats in determining whether CWA requirements are met.

Several commenters expressed concern that the permit coordination procedures did not recognize the importance of keeping permittees involved in the decision-making process. We believe that the permitting authority should always maintain open

communication with permittees to ensure that they are apprised of, and can provide input on, decisions that affect them. We have, therefore, added a clause in the permit coordination procedures stating that EPA will encourage the permitting authority to facilitate the involvement of permittees and permit applicants in this process.

In addition, the draft MOA referred to potential "adverse effects" to listed species in the permit coordination procedures. We were concerned that the use of this wording, which is an ESA term under section 7, could have been read as suggesting that the section 7 process was being followed with regard to State/Tribal permits, where in fact the MOA establishes a coordination procedure to ensure protection of listed species. To avoid any confusion, we have used the words "more than minor detrimental effects" in place of "adverse effects." Our intent remains to work together and with State/Tribal permitting authorities to ensure that concerns about the impacts of State/Tribal permits on listed species are addressed in the permitting process. As discussed elsewhere, the MOA also helps ensure in a variety of ways that water quality standards adopted by States and Tribes are protective of listed species, and implementation of such standards (i.e., standards that have undergone Section 7 consultation) through NPDES permits will help reduce any negative effects of discharges on listed species.

IV. Conclusion

We are confident that implementation of the final MOA will improve the effectiveness of our efforts to protect water quality and conserve endangered and threatened species. The ESA and the CWA contain powerful tools that, when integrated effectively, will advance the objectives of both Acts, and the MOA will help us achieve those goals.

Dated: January 10, 2001.

J. Charles Fox,

Assistant Administrator for Water, U.S. Environmental Protection Agency.

Dated: January 17, 2001.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

Dated: January 18, 2001.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

The text of the final Memorandum of Agreement follows.

Memorandum of Agreement Between the Environmental Protection Agency, Fish and Wildlife Service, and National Marine Fisheries Service Regarding Enhanced Coordination Under the Clean Water Act and the Endangered Species Act

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I. Purpose

This Agreement is designed (1) to improve coordination of the agencies' compliance with the Endangered Species Act (ESA) for actions authorized, funded, or carried out by EPA under sections 303(c) and 402 of the Clean Water Act (CWA), and (2) to provide clear and efficient mechanisms for improved interagency cooperation, thereby enhancing protection and promoting the recovery of threatened and endangered species and their supporting ecosystems, and reducing the need for future listing actions under the ESA. Throughout this Agreement, "Service" or "Services" shall refer to the Fish and Wildlife Service (FWS) and/or National Marine Fisheries Service (NMFS), as appropriate. In this Agreement "States" refers to States, Territories and Commonwealths that qualify as States for the programs covered by this Agreement, and "Tribes" refers to Tribes that qualify for treatment in the same manner as States under section 518 of the CWA.

II. Goals and Objectives

This Agreement is intended to accomplish the following:

- Use a team approach at the national, regional, and field office levels to restore and protect watersheds and ecosystems to achieve the goals of the ESA and CWA;
- Improve the framework for meeting responsibilities under section 7 of the ESA;
- Enhance the existing process in place to protect and recover Federally-listed and proposed species and the ecosystems on which they depend;
- Improve methods for coordinating compliance with sections 303(c) and 402 of the CWA and section 7 of the ESA;
- Streamline the Federal agency coordination process to minimize the

- regulatory burden, workload, and paperwork for all involved parties;
- Ensure a nationally consistent coordination process that allows flexibility to deal with site-specific issues;
- Develop mechanisms for EPA participation in the development and implementation of recovery plans for Federally-listed species threatened by physical, chemical or biological impairment of waters of the United States;
- Provide mechanisms for the Services' participation in development of water quality criteria and standards recognizing any unique requirements for listed and proposed species and designated and proposed critical habitat;
- Identify a collaborative mechanism for planning and prioritizing future CWA/ESA actions and resolving any potential conflicts or disagreements through a structured time-sensitive process at the lowest possible level within the agencies.

III. Guiding Principles

The ESA sets forth the goal of protecting and recovering threatened and endangered species and the ecosystems upon which they depend. It places responsibility on all Federal agencies, including EPA and the Services, to meet that goal. The Clean Water Act (CWA) sets forth a goal of restoring and maintaining the chemical, physical and biological integrity of the Nation's waters. Sections 303(c) and 402 of the CWA (as well as other provisions) are directed toward achieving this goal.

EPA and the Services find the goals of the CWA and ESA compatible and complementary, and are entering into this Agreement to affirm a partnership to enhance the realization of the goals of both Acts. This partnership will also seek to efficiently and effectively fulfill the requirements of section 7 of the ESA.

The primary principle underlying this Agreement is cooperative partnership. The ESA requires the involvement of all Federal agencies in the protection and recovery of our Nation's unique biological resources. As a result of this Agreement, the signatory agencies will better coordinate their efforts and will make it easier for the regulated community and other partners to work with them in achieving the purposes of the CWA and ESA.

While States and Tribes play a critical role in the administration and implementation of sections 303(c) and 402 of the CWA, they are not signatories to this agreement, which only addresses EPA's and the Services' responsibilities

under section 7 of the ESA. The Services and EPA remain committed to working with the States and Tribes collaboratively at all levels to ensure that both the CWA and ESA are implemented in a manner that fulfills the goals of both statutes in a timely and efficient manner.

IV. Authorities

A. Fish and Wildlife Service and National Marine Fisheries Service Authorities

This Agreement relates to the following authorities of the Services: Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

B. Environmental Protection Agency Authorities

This Agreement relates to the following authorities of EPA: Sections 303(c), 304(a) and 402 of the Clean Water Act, as amended, 33 U.S.C. 1251–1387.

C. Reservation of Authorities

This Agreement does not modify existing Agency authorities by reducing, expanding, or transferring any of the statutory or regulatory authorities and responsibilities of any of the signatory agencies.

V. Provisions and Understandings

A. Procedures to Facilitate Interagency Cooperation

EPA and the Services intend to work cooperatively to achieve their mutually shared objectives of protecting the quality of waters of the United States and species that depend on those waters. To facilitate collaboration among agency field and regional staff for planning and prioritizing future CWA/ESA actions and resolving any potential conflicts or disagreements through a structured, time-sensitive process at the lowest possible level, the agencies will follow the coordination and elevation procedures described below.

1. Local/Regional Coordinating Teams

The regional offices of EPA and the Services will establish coordinating teams, including representation from field offices, to foster early and recurring collaboration on various activities related to the CWA and the ESA. These teams will, as appropriate:

- a. Meet at least twice annually;
- b. Identify upcoming workload requirements. This dialogue will allow signatory agencies to become aware of and provide input on upcoming activities such as annual work plans, triennial water quality standards

reviews, recovery plan preparation, proposed State or Tribal program assumptions, proposed listings, or proposed habitat conservation planning efforts;

c. Identify high priority areas of concern and opportunities for cooperation;

d. Assist one another in determining which categories of NPDES permits should be identified for review by EPA and the Services for endangered species concerns, including waters of high concern in each State that should be priorities for EPA oversight; and how to identify, in cooperation with States and Tribes, the available information for evaluating effects of permitted discharges on species;

e. Identify current and future research needs and determine which of these research needs are appropriate to convey to the research coordinating committee and which are appropriate for local or regional accomplishment;

f. Identify training needs;

g. Identify ways to reduce the impacts of proposed agency actions on endangered and threatened species; and

h. Assist the oversight panel in conducting a programmatic review of EPA's authorities and identifying ways that EPA can more fully utilize those authorities to carry out programs for the conservation of listed species.

Each of these local/regional coordinating teams will develop mechanisms to facilitate streamlining of various work activities as appropriate to the local circumstances. Such streamlining should facilitate early exchange of information, early prioritization of workload, and early identification of potential problems. Each local group should develop mechanisms to work with States and Tribes, as appropriate, concerning such things as candidate conservation agreements, recovery planning, triennial reviews, and annual CWA priorities. Local/regional coordinating teams may develop mechanisms to involve other Federal agencies such as the U.S. Army Corps of Engineers, the Forest Service, the Federal Energy Regulatory Commission, and non-Federal stakeholders whose actions and interests may impact the CWA/ESA issues.

2. Interagency Elevation Process

The following procedures shall be utilized to elevate any conflict or disagreement between the agencies arising with regard to the activities addressed by this agreement, including formal or informal section 7 consultations, as well as disagreements arising in section 7 consultations on

EPA actions under the CWA that are not specifically addressed by this agreement. The procedures may be used to review matters such as the content of biological evaluations or supporting analyses prepared by EPA or biological opinions prepared by the Services. However, the elevation process does not impair in any way the ultimate authority of EPA or the Services to issue decisions or render determinations that are within each agency's authority under the CWA and the ESA. While decisions by all levels, including decisions to elevate, will be made by consensus to the greatest extent practicable, any one agency can initiate the elevation process. Elevation should be initiated so that all applicable deadlines may be met, taking into account subsequent levels of review. In any elevation, the agencies will jointly prepare an elevation document that will contain a joint statement of facts and succinctly state each agency's position and recommendations for resolution. If the agencies are aware of a dispute, they will defer taking final action, where consistent with applicable legal deadlines, to allow the issue to be resolved through the elevation process.

The time periods specified below are intended to facilitate expeditious resolution of the issues. These time periods should be shortened when necessary for any agency to meet applicable legal deadlines. The time periods begin to run on the date that the elevating agency or agencies notify the next level of the elevation request. All prescribed time frames in the elevation process can be waived by the mutual consent of the participants at any level when the participants believe that progress is being made and that resolution at that level is still possible.

a. *Level 1:* The Level 1 review team consists of staff personnel from EPA and FWS and/or NMFS and field unit line officers or staff supervisors, (*i.e.*, for NMFS, branch/division chiefs; for EPA, branch chiefs; and for FWS, field office supervisors). The overall goal is to design actions to avoid and/or minimize adverse impacts to listed species by jointly working on biological evaluations, concurrences and biological opinions for such actions. General functions include those specified in section V.A.1.

Any contentious issues will be discussed with an attempt to resolve them without elevation. If disputes cannot be resolved among the Level 1 team members, the issue will be raised with the Level 2 review team as soon as possible.

b. *Level 2:* The Level 2 review team consists of all regional executives (*i.e.*,

for NMFS and EPA, regional administrators; and for FWS, regional directors). Their function is to resolve any elevated disputes within 21 days of notification of elevation by Level 1 teams, or sooner as necessary to meet mandatory deadlines, and serve as key advisors on policy and process. The Level 2 team (*i.e.*, the regional executives) may confer with field unit line officers or staff supervisors (*e.g.*, for NMFS, branch/division chiefs; for EPA, branch chiefs; and for FWS, field office supervisors) in making any decisions on the elevation. If issues are not resolved by the Level 2 team, the issue will be elevated for Headquarters Review.

c. *Headquarters Review:* This review consists of the Director of NMFS (Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, NOAA), the Director of FWS, and the Deputy Assistant Administrator of Water at EPA or their representatives. These officials shall attempt to issue a decision resolving the issue within 21 days after elevation. Decisions will be binding upon the agencies' field staffs. Agency administrators or their designees shall make every attempt to resolve the dispute before elevation, where necessary, to the Assistant Secretaries of the Departments of Interior/ Commerce and the Assistant Administrator of EPA. Where determined to be appropriate (*e.g.*, where the results of the elevation would provide useful guidance to agency staff), the decision on the elevation should be memorialized in writing and circulated among Agency staff to serve as guidance for future decisions. Assistant Secretary(s) and Assistant Administrator shall resolve any issues within 21 days of elevation. The authority to render any decision that is subject to elevation rests with the agency exercising the statutory or regulatory authority in question.

3. Oversight Panel

The Oversight Panel consists of regional and headquarters personnel from each individual agency. The panel provides oversight and coordination for all aspects of this agreement. Its functions include, but are not limited to:

- (1) Maintaining and updating process guidance;
- (2) Addressing issues about process implementation;
- (3) Incorporating/identifying improvements and revisions into the process;
- (4) Convening interagency scientific/technical reviews, as appropriate;
- (5) Facilitating reaching consensus on particular issues at any level upon requests by personnel at that level;

(6) Reviewing and evaluating, at least on an annual basis, the Agreement and its implementation by the three agencies; and

(7) As soon as is practicable and no later than one year after signature of the MOA, conducting a proactive conservation review pursuant to section 7(a)(1) of the ESA which will address EPA's authorities under the CWA for carrying out programs for the conservation of listed species.

4. Sub-Agreements

Regional and field level Federal sub-agreements further implementing this Agreement may be executed by appropriate EPA/Services programs. Any such sub-agreements which clarify roles, procedures, and responsibilities are encouraged. This includes any efforts to protect species and water quality on a watershed or ecosystem basis. Sub-agreements must be consistent with this Agreement and must be approved by Regional offices and reviewed by Headquarters.

5. Guidance/Training

EPA and the Services will hold joint training sessions with regional and field staff to facilitate staff's understanding and implementation of the Agreement, with a goal of providing such training to all relevant personnel within eighteen months. The agencies may issue guidance individually or jointly to assist in carrying out this Agreement.

B. Summary—Section 7 Consultation Process

1. Scope

The regulations that interpret and implement section 7 of the ESA establish a framework for efficient and consistent consultation between Federal agencies regarding listed species and critical habitat.

2. Data and Information Requirements

EPA agrees to include in any biological assessment or evaluation the best available scientific and commercial information. EPA and the Services will exercise their scientific judgment to determine the relevance and validity of the available scientific and commercial information. The Level 1 review teams will provide a venue for collaborating among the agencies on these issues.

3. Information Sharing

The Services will initially provide EPA with a consolidated list of Federally-listed and proposed species and designated and proposed critical habitat by State. EPA will send the list of species and habitat to States and Tribes. The Services agree to provide to

EPA any additions of species or other relevant information as proposed or final rule-making occurs. EPA will provide and update copies of Federal section 304(a) water quality criteria and applicable State and Tribal water quality standards to the Services.

EPA and the Services will share information and analyses used to make decisions under this Agreement when requested, including analyses supporting biological evaluations and biological opinions. The Services will provide to EPA copies of all draft jeopardy biological opinions and draft no jeopardy biological opinions with incidental take statements, unless EPA specifically requests that a draft not be provided.

4. Effects of an Action

All "effects of the action" and "cumulative effects" will be considered in the Services' biological opinions (50 CFR 402.14(c), 402.14(g) (3) and (4), and 402.14(h)). The "effects of an action" include all direct as well as indirect effects that are reasonably certain to occur, even at a later time. Effects of an action include effects of interrelated and interdependent actions associated with the proposed action in question.

Cumulative effects include future State or Tribal and private actions that are reasonably certain to occur in the action area that do not involve Federal activities. Water quality criteria and State or Tribal water quality standards establish levels of pollutants from all sources, and so would account for all such effects insofar as water quality is concerned. Since NPDES permits are established to achieve water quality standards, they will account for point source effects insofar as water quality is concerned.

5. Biological Evaluation

Although section 7(c) of the ESA refers to a biological assessment as an element of the consultation process, a biological assessment is required only in the case of a major construction activity, as defined at 50 CFR 402.02. The purpose of a biological assessment is to enable an agency to determine whether a proposed action is likely to adversely affect Federally-listed species and designated critical habitat. A biological assessment also assists an agency in complying with potential ESA "conference" requirements for proposed species and critical habitat under 50 CFR 402.10. For EPA actions that are not major construction activities, an alternative document that may be used for decision-making is a biological evaluation. While a biological evaluation is not required by regulation,

EPA will develop such an evaluation where the Agency determines it would be appropriate for determining whether listed species may be affected by the proposed action and for assisting consultation with the Services. The Services recognize that the content and format of the biological evaluation are to be determined by EPA. When preparing biological evaluations, EPA will use as guidance the information requirement described at 50 CFR 402.14(c) (initiation of consultation).

A biological evaluation is an analysis of the potential effects of a proposed action on listed species or their critical habitat based upon the best available scientific or commercial information. The biological evaluation will vary in extent and rigor according to the certainty and severity of an action's deleterious effect. For example, a biological evaluation may be very brief if the expected result of an action is straightforward, is beneficial, or is of little or no consequence. If, on the other hand, the potential effects are severe, large in scope, complex or uncertain in terms of outcome, the analysis would need to be more extensive and rigorous.

A biological evaluation can be used for decision-making prior to and throughout section 7 consultation and for a possible conference on proposed species or critical habitat. The evaluation can be used to make a "may effect" or "no effect" determination, or to support a judgment that the proposed action is or is not likely to adversely affect listed species or their critical habitat.

If early or formal consultation is initiated, a biological evaluation or biological assessment can be used by the appropriate Service in rendering a preliminary or final biological opinion. Therefore, EPA will discuss, as appropriate, the form and nature of the biological evaluation with the Services to ensure that the biological evaluation contains adequate information for evaluating the effects of the proposed action.

6. Timeliness of Actions

In informal and formal consultation, EPA and the Services agree to adhere to time frames set forth in 50 CFR part 402 and supplemental guidance provided in this Agreement, in order to enable EPA to meet statutory and regulatory deadlines under the CWA. EPA will strive to provide advance notice to the Services concerning anticipated consultations, to provide thorough biological evaluations, to comment promptly on draft opinions and to provide, where appropriate, additional

available information requested by the Services.

If during informal consultation EPA determines that the action is not likely to adversely affect listed species or critical habitat, then EPA will notify the Services in writing. The Services will respond in writing within 30 days of receipt of such a determination, unless extended by mutual agreement. The response will state whether the Services concur or does not concur with EPA's determination. If the Services do not concur, it will provide a written explanation that includes the species and/or habitat of concern, the perceived adverse effects, supporting information, and a basic rationale.

The Services may request that EPA initiate consultation on a Federal action. The Services do not have the authority, however, to require the initiation of consultation. The Services' written explanation of the request shall include the species and/or critical habitat of concern, manner in which there may be an effect, supporting information, and a basic rationale.

The Services will strive to issue biological opinions within 90 days of an initiation of formal consultation unless the Services and EPA agree to extend the consultation period. The timing of activities during consultation may be further expedited as necessary taking into account legal deadlines for EPA action and the agencies' programmatic needs. EPA, where appropriate, will enter into early consultation with the Services in order to ensure that EPA meets its statutory CWA deadlines for decision-making. In addition, EPA and the Services agree to make every effort to provide prompt and responsive communications to ensure States, Tribes, and permit applicants do not suffer undue procedural delays. Where EPA prepares a biological evaluation, EPA will attempt to provide the Services a biological evaluation at least 90 days before reaching a decision on a proposed action.

7. EPA Responsibility at the Conclusion of Section 7 Consultation

Following issuance of a biological opinion, EPA will determine whether and in what manner to proceed with the action in light of its CWA and section 7 obligations. If a jeopardy opinion is issued, EPA will notify the Services of its final decision on the action.

8. Reinitiation of Formal Consultation

The section 7 regulations define conditions under which EPA or the Services will request reinitiation of formal consultation at 50 CFR 402.16. The Services and EPA will work

cooperatively to evaluate any new information to determine if reinitiation is necessary.

C. Proposed Species and Proposed Critical Habitat

The Services will identify proposed species and proposed critical habitat to EPA Regional offices. EPA will evaluate any CWA activities it authorizes, funds, or carries out that are subject to section 7 and determine if they are likely to jeopardize proposed species or result in the destruction or adverse modification of proposed critical habitat. If so, EPA will confer with the Services using the procedures under 50 CFR 402.10. The Services may also initiate a request for conference on a particular action.

D. Recovery Program

Section 7(a)(1) of the ESA provides that Federal agencies shall utilize their authorities in furtherance of the purposes of the ESA by carrying out programs for the conservation and recovery of threatened and endangered species. Section 7 consultation and the recovery planning and implementation process are two primary mechanisms that EPA can use as guides to identify actions that EPA or the Services believe are needed to protect and recover Federally-listed species.

1. Conservation Recommendations To Assist Recovery

The section 7(a)(2) consultation process is primarily intended to ensure that EPA's actions are not likely to jeopardize the continued existence of Federally-listed species or adversely modify their critical habitat. However, under the authority provided in section 7(a)(1), biological opinions may contain discretionary conservation recommendations to promote the recovery of the subject species. (50 CFR 402.02 defines conservation recommendations as suggestions of the Services regarding the development of information or discretionary measures to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans or to develop information.) Implementation of these conservation recommendations would help conserve and recover listed species.

Frequent and informal contact between the Services and EPA is encouraged during all stages in the development of conservation recommendations. During section 7 consultation, the Services will work closely with EPA to identify conservation recommendations and

evaluate the feasibility of their implementation.

2. Recovery Planning

Recovery plans are developed in three stages: (a) Technical drafts that are intended to provide agencies an opportunity to assist the Services in developing biologically sound recovery plans; (b) Agency drafts which outline the various tasks the Services feel may be within the jurisdiction of other agencies and are circulated for public comment (the Technical and Agency Draft are sometimes combined into one document to save time); and (c) the final plan.

The Services will invite EPA to serve as members of Recovery Teams where water quality is a concern or EPA has particular expertise, provide to EPA copies of all draft recovery plans that contain water quality related recovery tasks, and actively solicit EPA's involvement during all phases of recovery plan development. The Services will also solicit State or Tribal involvement, where appropriate. EPA will provide the Services with comments related to water quality threats, recovery issues, and will suggest areas where plans could be modified to include specific actions to support the species recovery effort.

3. Recovery Implementation

EPA and the Services will hold recovery planning/implementation discussions or meetings, on at least an annual basis. The members of this group and the geographic area covered by this group will vary among Regions, depending on the geographic range and number of species impacted by water quality. The meetings could be organized on a watershed or ecosystem basis and involve field and/or Regional personnel. These groups will discuss current and upcoming water quality/ listed species related activities, and provide input for prioritizing watersheds (e.g., the number of listed species, the seriousness of threats, and the opportunities for conservation/ recovery success) for potential future coordinated activities.

E. Candidate Conservation Activities

The Services and EPA will develop watershed and ecosystem based initiatives to identify and remove those conditions that may lead to future listings. Efforts should focus on candidate species and other species of concern and their associated ecosystems. The local/regional coordinating teams will identify specific focus areas.

VI. National Level Activities To Ensure Protection of Species

EPA will take the following steps at the national level to ensure that State and Tribal water quality standards provide protection for endangered and threatened species.

A. National Rulemaking

EPA will propose amendments to its national water quality standards regulations (40 CFR part 131) to include provisions to ensure the protection of endangered and threatened species within 24 months following the execution of this Agreement. EPA will propose to require that water quality not be likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of designated critical habitat, and to provide that mixing zones shall be not likely to cause jeopardy, including a prohibition of mixing zones or variances that would be likely to cause jeopardy, and a requirement that States or Tribes adopt site-specific water quality criteria (tailored to the geographic range of the species of concern) where determined to be necessary to avoid a likelihood of jeopardy.

After consideration of public comment, EPA will adopt appropriate provisions in a final regulation.

B. Development of New Water Quality Criteria Methodological Guidelines

EPA will continue to invite the Services to be represented on EPA's Aquatic Life Criteria Guidelines Committee. EPA has charged this committee with revising and updating EPA's methodological guidelines for issuance of new 304(a) water quality criteria guidance values. As members of the committee, the Services and EPA will ensure that these methodological guidelines take into account the need to protect Federally-listed species. The Services will assist EPA to (1) develop and have peer reviewed a list of surrogate and target endangered and threatened species that could be used in pollutant toxicity testing and (2) assist in the development of biocriteria for streams, rivers, lakes, wetlands, estuaries or marine waters that contain endangered and threatened species or designated critical habitat.

These methodological guidelines are subject to peer review, public notice and comment prior to being finalized. Prior to the public comment period, the Directors will provide the Services' views regarding the guidelines so that the public will have the benefit of the Services' views during the comment

period. The Services will also be invited to participate in the peer review process for the development of new criteria values under section 304(a), and will designate technical experts to provide the Services' views during the peer review process.

C. National Consultation on CWA Section 304(a) Aquatic Life Criteria

1. Overview

Under section 304(a) of the CWA, EPA from time to time publishes water quality criteria that serve as scientific guidance to be used by States or Tribes in establishing and revising water quality standards. These criteria are not enforceable requirements, but are recommended criteria levels that States or Tribes may adopt as part of their legally enforceable water quality standards. States or Tribes may, however, adopt other scientifically defensible criteria in lieu of EPA's recommended criteria (see 40 CFR 131.11(b)). EPA has to date published criteria for the protection of aquatic life for 45 pollutants. EPA has developed an interim-final "Water Quality Criteria and Standards Plan" (EPA, June 1998) to guide the development and implementation of new or modified 304(a) criteria in the coming years.

The objective of EPA's criteria program is to provide scientific information to States and Tribes that will best facilitate the overall protection of the aquatic ecosystem. A better understanding of the effects of water pollution on endangered and threatened species will help achieve this objective. Therefore, EPA and the Services will conduct a section 7 consultation on the aquatic life criteria to assess the effect of the criteria on listed species and designated critical habitat. EPA and the Services will also conduct a conference regarding species proposed for listing and proposed designated critical habitat. EPA will consider the results of this consultation as it implements and refines its criteria program, including decisions regarding the relative priorities of revising existing criteria and developing new criteria.

EPA and the Services have gained considerable experience in evaluating the potential effects on endangered and threatened species of pollutants for which EPA has published recommended aquatic life criteria under section 304(a) of the CWA. For example, the Services have issued biological opinions as a result of section 7 consultations on aquatic life criteria approved by EPA in water quality standards adopted by the States of New Jersey, Alabama, and Arizona, and

promulgated by EPA for the Great Lakes Basin. EPA also conducted consultation with the Services regarding aquatic life criteria promulgated by EPA for toxic pollutants for certain waters in California. In addition to these comprehensive formal consultations, EPA and the Services have also conducted informal consultations on State water quality standards approval actions which have covered water quality criteria contained in the standards.

EPA and the Services recognize, however, that conducting consultations on a State-by-State basis is not the most efficient approach to evaluating the effects of water pollution on endangered and threatened species throughout the country. National 304(a) consultations will ensure a consistent approach to evaluating the effects of pollutants on species and identifying measures that may be needed to better protect them. National consultations will also ensure better consideration of effects on species whose ranges cross State boundaries.

2. Procedures for Consultations

The consultations will be conducted in accordance with the procedures in 50 CFR part 402 and the guidance contained in the Services' Consultation Handbook. EPA and the Services also anticipate that the consultations will follow the basic approach described below. The agencies will endeavor to streamline their processes to complete these consultations in an expedited manner.

EPA and the Services anticipate that the national consultations will focus on aquatic and aquatic-dependent species. The consultations will be conducted on a national basis, and therefore, will not be waterbody-specific. In addition, given the numbers of species involved in the consultations, the effects on species will be evaluated to the maximum extent possible based on groupings of species believed to be affected in a similar manner.

The agencies will take a collaborative approach to evaluating the effects of the criteria pollutants on listed species, and joint teams will be established to conduct the consultations. With input from the Services, EPA will prepare a biological evaluation based on the best scientific and commercial data available, and will provide a rationale for any findings regarding the effects of the criteria pollutants on listed species. EPA will make "effects determinations" based on the direct and indirect effects of the 45 pollutants on listed species. EPA will evaluate the effects of pollutants on species in the water column based upon the available

toxicological data, principally the data assembled in EPA's criteria development documents as well as any more recent toxicological information. EPA will consider other exposure scenarios to aquatic and aquatic-dependent species and provide available information to the Services.

The Services will work collaboratively with EPA in developing their biological opinion, including the development of any reasonable and prudent measures or alternatives to minimize incidental take, if anticipated, or to avoid likely jeopardy to listed species or adverse modification or destruction of designated critical habitat. Any reasonable and prudent measures or alternatives that identify research needs will be mutually developed and will reflect priorities established by the national research and data gathering plan. Should the opinion call for revisions to existing criteria or issuance of new criteria, the opinion will recognize EPA's practice of subjecting new or revised criteria to public notice and comment and external peer review prior to being finalized. EPA believes that the existing criteria provide a significant degree of protection for the aquatic ecosystem (including listed species). The agencies agree that, until any revisions of criteria are completed, the agencies will, to the maximum extent practicable, maintain the status quo by continuing to implement such criteria in water quality standards programs prior to revisions to the criteria.

Because the effects of the criteria pollutants on certain listed species have already been evaluated in biological opinions issued by the Services, the agencies will rely upon the scientific information and conclusions in those consultations to the maximum extent possible. Such prior opinions will remain in effect unless consultation is reinitiated.

The national consultation will provide section 7 coverage for any water quality criteria included in State or Tribal water quality standards approved, or Federal water quality standards promulgated, by EPA that are identical to or more stringent than the recommended section 304(a) criteria. Therefore, separate consultation on such criteria will not be necessary, subject to requirements related to reinitiation of consultation under 50 CFR 402.16. If, during the national consultation, EPA proposes to take an action approving or promulgating numeric standards that are identical to or more stringent than the existing 304(a) criteria, such action will be covered by the national consultation. EPA and the Services

agree that EPA may proceed with its action pending the conclusion of the national consultation. EPA will ensure that its action does not have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives in the national consultation by stating that EPA's action is subject to revision based on the results of the consultation.

VII. Joint National Research and Data Gathering Plan and Priorities

EPA and the Services will convene a work group of scientific and technical personnel to develop a research and data gathering plan that supports water quality standards protective of species of concern and the ecosystems they inhabit. The goal of the plan is to identify high priority data and information needed to reduce uncertainty concerning the degree to which water quality criteria and permits are protective of endangered or threatened species. The plan also recognizes the agencies' joint interest in, and responsibility for, funding and conducting research related to endangered and threatened species. The information gathered as a result of this joint plan and the national criteria consultations will be used by EPA in the revision or development of national 304(a) water quality criteria, in review of State and Tribal water quality standards, and the evaluation of permits. Similarly, the Services will use this information in assessing threats and minimizing adverse effects to listed species. The agencies agree that the plan should be completed, if possible, within eighteen months of the signing of this Agreement.

The work group will primarily be concerned with three tasks: (1) Development of the research plan, including the components identified below; (2) evaluating and prioritizing research or data gathering needs identified in consultations on EPA's review of specific State and Tribal water quality standards; and (3) overseeing and coordinating the implementation of the national research/data gathering plan.

A. Existing and New Water Quality Criteria

The national research work group will identify those CWA section 304(a) aquatic life criteria that are the highest priority candidates for additional research based on issues identified in consultations on State and Tribal water quality standards and the national consultations on the aquatic life criteria published by EPA.

The work group will also identify the highest priority areas for the development of new national 304(a) water quality criteria to protect listed species. The work group will take into account new criteria development needs identified in consultations on State and Tribal water quality standards including, in particular, the priority to be given to the development of wildlife criteria for areas where such criteria have not been developed (i.e., outside the Great Lakes Basin).

B. Work Group Report to Agreement Signatories

Within one year of signing this Agreement, the work group will submit a comprehensive report to the signatories of this Agreement (or their successors) that (1) summarizes the range of research options considered by the work group; (2) makes recommendations regarding priority research and data gathering undertakings for existing and new water quality criteria; (3) describes the recommended additional research; (4) estimates the likely cost of the research; (5) evaluates available funding for completing the research; and (6) establishes a specific time frame for completing the research and data gathering.

C. National Research and Data Gathering Plan

After taking into account the recommendations of the work group, the signatories of this Agreement (or their successors) will adopt a national research and data gathering plan within eighteen months of the signing of this Agreement. The plan will identify near-term (1–5 years) priorities reflecting the highest priorities identified by the agencies that can be accomplished with available and anticipated funding sources. The plan will also identify longer term (5–10 years) priorities. The agencies will work to incorporate the plan into their respective budgets, and to achieve economies of scale and increased effectiveness in the use of limited funds by coordinating efforts wherever possible. The agencies will also work to coordinate the plan with other Federal agencies as appropriate.

D. Consultation on State and Tribal Water Quality Standards

On an ongoing basis, the work group will provide expertise and assistance to the field/regional offices regarding research/data gathering issues raised in consultations on State and Tribal water quality standards. Where such consultations identify significant research/data gathering priorities, those

priorities will be forwarded for evaluation by the work group. With input from the regional/field offices, the work group will determine the priority of such research and data gathering in relation to other needs contained in the national plan. This process will enable the agencies to rationally allocate their resources as new research/data gathering needs arise.

VIII. Consultation on Water Quality Standards Actions

A. Development of New or Revised State or Tribal Water Quality Standards

EPA will communicate and, where required under section 7 of the ESA, consult with the Services on new or revised State or Tribal water quality standards and implementing procedures that are subject to EPA review and approval under section 303(c) of the CWA.

If a State or Tribe requests, or upon mutual agreement, EPA may, by notifying the appropriate Service(s) in writing, designate a State or Tribe to serve as a non-Federal representative to conduct informal consultation in accordance with 50 CFR 402.08.

1. Scoping of Issues To Be Considered During the Triennial Review Process

Section 303(c) of the CWA requires States to adopt and revise standards at least on a triennial basis. The Services and EPA recognize that to accomplish timely implementation of standards that may affect Federally-listed species and designated critical habitat, early involvement and technical assistance by the Services is needed. In an effort to facilitate collaboration and the consultation process, EPA regional offices will provide the Services annually with a list of all upcoming scheduled triennial reviews for the next 5-year period.

The Services will participate in a meeting with EPA and the State or Tribe to discuss the extent of an upcoming review. EPA will take the lead to schedule the meeting near the start of the triennial review process.

2. Development of State or Tribal Standards

EPA will seek the technical assistance and comments of the Services during a State's or Tribe's development of water quality standards and related policies. The Services will provide the States or Tribes and EPA with information on Federally-listed species, proposed species and proposed critical habitat, and designated critical habitat in the State or on Tribal lands. EPA will provide assistance to the Services in

obtaining descriptions of pollutants and causes of water quality problems within a watershed or ecosystem. The Services will work cooperatively with the States or Tribes to identify any concerns the Services may have and how to address those concerns. EPA will request the Services to review and comment on draft standards, and to participate in meetings with States or Tribes as appropriate. EPA will indicate which of these requests are of high priority, and the Services will make every effort to be responsive to these requests.

Where appropriate, EPA and the Services will encourage the State or Tribe to adopt special protective designations where listed or proposed threatened or endangered species are present or critical habitat is designated or proposed.

EPA will initiate discussions with the Services if there is a concern that a draft State or Tribal standard or relevant policy may impact Federally-listed species or critical habitat.

3. Adoption and Submittal of State or Tribal Standards

States or Tribes adopt new and revised standards and implementing policies from time to time as well as at the conclusion of the triennial review period.

After the final action adopting the standards, the State or Tribe sends its adopted standards to EPA. Once received, EPA is required by the CWA to approve the standards within 60 days or disapprove them within 90 days. Section 7 consultation is required if EPA determines that its approval of any of the standards may affect listed species or designated critical habitat. The time periods established by the CWA require that EPA and the Services work effectively together to complete any needed consultation on a State's or Tribe's standards quickly. In order to provide enough time for consultation with the Services where the approval may affect endangered or threatened species, EPA will work with the State or Tribe with the goal of providing to the Services a final draft of the new or revised water quality standards 90 days prior to the State's or Tribe's expected submission of the standards to EPA. The Services and EPA agree to consult on the final draft, and to accommodate minor revisions in the standards that may occur during the State's or Tribe's adoption process.

4. EPA Develops Biological Evaluation

When needed, EPA will develop a biological evaluation to analyze the potential effect of any new or revised State or Tribe adopted standards that

may affect Federally-listed species or critical habitat.

5. EPA Determination of "No Effect," "May Affect," and "Likely To Adversely Affect"

EPA will evaluate proposed new or revised standards and use any biological evaluation or other information to determine if the new or revised standards "may affect" a listed species or critical habitat. For those standards where EPA determines that there is "no effect," EPA may record the determination for its files and no consultation is required. Although not required by section 7 of the ESA for actions that are not major construction activities as defined by 50 CFR 402.02, EPA will share any biological evaluation, "no effect" determination, and supporting documentation used to make a "no effect" determination with the Services upon request.

If EPA decides that the new or revised water quality standards "may affect" a listed species, then EPA will enter into informal consultation (unless EPA decides to proceed directly to formal consultation) to determine whether the standards are likely to adversely affect Federally-listed species or critical habitat. If EPA determines that the species or critical habitat is not likely to be adversely affected, EPA will request the Service to concur with its finding.

Where EPA finds that a species or critical habitat is likely to be adversely affected, EPA will consider, and the Services may suggest, modifications to the standards(s) or other appropriate actions which would avoid the likelihood of adverse effects to listed species or critical habitat. If the likelihood of adverse effects cannot be avoided during informal consultation, then EPA will initiate formal consultation with the Services or EPA may choose to disapprove the standard. In addition, if EPA finds that a proposed species is likely to be jeopardized or proposed critical habitat destroyed or adversely modified by EPA approval of a new or revised State or Tribal standard, EPA will confer with the Services under 50 CFR 402.10.

6. Services' Review of "Not Likely To Adversely Affect" Determination

Within 30 days after EPA submits a "not likely to adversely affect" determination, the Services will provide EPA with a written response on whether they concur with EPA's findings. The Services will provide EPA with one of the three following types of written responses: (1) Concurrence with EPA's determination (this would conclude consultation), (2) non-concurrence with

EPA's determination and, if the Services cannot identify the specific ways to avoid adverse effects, a request that EPA enter into formal section 7 consultation (see 7 below), or (3) a request that EPA provide further information on their determination. If it is not practicable for EPA to provide further information, the Services will make a decision based on the best available scientific and commercial information.

7. Formal Consultation

Where EPA intends to request formal consultation, EPA will attempt to do so at least 45 days prior to the State's or Tribe's expected submission of water quality standards to EPA. Formal consultation on new or revised standards adopted by a State or Tribe will begin on the date the Services and EPA jointly agree that the information provided is sufficient to initiate consultation under 50 CFR 402.14(c). The consultation will be based on the information supplied by EPA in any biological evaluation and other relevant information that is available or which can practicably be obtained during the consultation period (see 50 CFR 402.14(d) and (f)). The Services will make every effort to complete consultation and delivery of a final biological opinion within 90 days, or on a schedule agreed upon with the EPA Regional Office.

If the Service anticipates that incidental take will occur, the Service's biological opinion will provide an incidental take statement that will normally contain reasonable and prudent measures to minimize such take, and terms and conditions to implement those measures. Reasonable and prudent measures can include actions that involve only minor changes to the proposed action, and reduce the level of take associated with project activities. These measures should minimize the impacts of incidental take to the extent reasonable and prudent. Measures are considered reasonable and prudent when they are consistent with the proposed action's basic design, location, scope, duration, and timing. The test for reasonableness is whether the proposed measure would cause more than a minor change to the proposed action. 50 CFR 402.14(i)(2).

Appropriate minor changes can include, for example, a condition stating that the EPA Regional Office will work with the State or Tribe to obtain revisions to the water quality standards in the next triennial review. Where either of the Services believe that there is a need for the standards to be revised more quickly, the Service should work with EPA and the State or Tribe to

determine whether any revisions could be developed more quickly than the next anticipated triennial review. Because reasonable and prudent measures should not exceed the scope of EPA actions, reasonable and prudent measures in a water quality standards consultation should not impose requirements on other CWA programs unless agreed to by both EPA and the Services.

The Services may include research or data gathering undertakings as conditions of an incidental take statement contained in a biological opinion where it determines that the way to minimize future incidental take is through research and data gathering. However, to the maximum extent possible, the Services will work with EPA to identify research needs that will be addressed in the National Research and Data Gathering Plan. The Plan identifies high priority data and information needed to reduce the uncertainty inherent in the degree to which water quality criteria would protect listed species. Research and data identified in the Plan has the goal of minimizing any incidental take associated with water quality standards.

Where site specific research or data are needed that are not addressed in the Plan, the biological opinion will explain how the research or data gathering will minimize such take while not altering the basic design, location, scope, duration, or timing of the action.

Where a regional EPA office finds that it is not practicable to complete the research or data gathering requested in the draft opinion, but the Services believe that inclusion of the research condition is important to minimizing incidental take, the Services may elevate the issue in accordance with the procedures in section V.A. of this Agreement. During the elevation process, the agencies will evaluate the need for the research identified by the Service in the water quality standards consultation in light of available resources and the Plan.

Reasonable and prudent measures and terms and conditions should be developed in close coordination with the EPA and the State or Tribe, to ensure that the measures are reasonable, that they cause only minor changes to the proposed action, and that they are within the legal authority and jurisdiction of the Agency to carry out. If the Services, EPA, and the States or Tribe cannot reach agreement on appropriate reasonable and prudent measures or terms and conditions at the level the consultation is being conducted, the decision can be elevated

by the procedures discussed in section V.A.

As a general matter, EPA disapproval of a State or Tribal water quality standard is not a minor undertaking because it triggers a legal duty on the part of EPA to initiate promptly Federal rule-making unless the State or Tribe revises the standard within 90 days (see CWA 303(c)(3) and (4)). Where the Services and EPA agree, however, disapproval of a State or Tribal water quality standard may be included as a reasonable and prudent measure in an incidental take statement.

The Services will issue a biological opinion that concludes whether any Federally-listed species are likely to be jeopardized or critical habitat adversely modified or destroyed by the State or Tribe's new or revised water quality standards. If either of the Services makes a jeopardy or adverse modification finding, it will identify any available reasonable and prudent alternatives, which may include, but are not limited to, those specified below. EPA will notify the Services of its final decision on the action.

Some possible ideas for development of specific reasonable and prudent alternatives are:

a. EPA coordinates with the State or Tribe to adopt (or revise) water quality standards necessary to remove the jeopardy situation.

b. EPA disapproves relevant portions of the State or Tribe's adopted standards (see 40 CFR 131.21) and initiates promulgation of Federal standards for the relevant water body (see 40 CFR 131.22). Where appropriate, EPA would promulgate such standards on an expedited basis.

c. Using its authority under section 303(c)(4)(B) of the CWA, EPA promulgates Federal standards as necessary.

8. EPA Action on State or Tribal Standards

After reviewing the biological opinion, EPA will inform the Services of its intended action.

B. Existing Water Quality Standards

If the Services present information to EPA, or EPA otherwise has information supporting a determination that existing State or Tribal water quality standards are not adequate to avoid jeopardizing endangered or threatened Federally-listed species or adversely modifying critical habitat or for protecting and propagating fish, shellfish and wildlife, EPA will work with the State or Tribe in the context of its triennial review process to obtain revisions in the State or Tribal standards. Such revisions

could include, where appropriate, adoption of site-specific water quality standards tailored to the geographic range of the species of concern. If a State or Tribe does not make such revisions, the EPA regional office will recommend to the EPA Administrator that a finding be made under section 303(c)(4)(B) of the CWA that the revisions are necessary.

EPA will engage in section 7 consultation to ensure that any revisions to the existing standards are not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of designated critical habitat and to minimize any anticipated incidental take. If EPA and the Services disagree regarding the need for revisions in the State or Tribal standards, the issue may be elevated. Consultation will be consistent with the provisions of 50 CFR part 402 and part A above.

C. Consultation on EPA Promulgation of State or Tribal Water Quality Standards

EPA promulgation of State or Tribal water quality standards is a Federal rule-making process and EPA will comply with the consultation requirements of section 7 of the ESA with any promulgation.

IX. Permitting Program Activities

This Agreement establishes a framework for coordinating actions by EPA and the Services for activities under the CWA section 402. These activities are: (1) EPA review of permits issued by States or Tribes with approved permitting programs, and (2) EPA issuance of permits under section 402 of the CWA.

A. Coordination Procedures Regarding Issuance of State or Tribal Permits

EPA has authority and responsibility for overseeing the operation of State/Tribal NPDES programs through, among other means, review of State/Tribal NPDES permits where appropriate. EPA's oversight includes consideration of the impact of permitted discharges on waters and species that depend on those waters. EPA does this by among other things, determining whether State or Tribal permits indeed attain water quality standards. The procedures outlined below are designed to assist EPA in fulfilling these CWA oversight responsibilities.

EPA and the Services agree to follow the coordination procedures below with regard to EPA review of State or Tribal permits in all existing and new permitting programs approved by EPA under section 402 of the CWA. Procedures and time lines for EPA

review and objection to State or Tribal permits are established by statute and regulation. See CWA section 402(d); 40 CFR 123.44. Where EPA determines that exercise of its objection authority is appropriate to protect endangered and threatened species, the Agency will act pursuant to its existing authorities under the CWA (i.e., where the proposed permit would be "outside the guidelines and requirements" of the CWA. See CWA 402(d)(2)). EPA and the Services will follow the coordination procedures below in a manner consistent with these statutory and regulatory procedures:

1. The Services will provide the States or Tribes with information on Federally-listed species and any designated critical habitat in the States or on Tribal lands, with special emphasis on aquatic and aquatic-dependent species.

2. States are obligated under existing CWA regulations to provide notice and copies of draft permits to the Services. See 40 CFR 124.10(c)(1)(iv) and (e). EPA will exercise its oversight authority to ensure that States and Tribes carry out this obligation. EPA and the Services will work with States and Tribes to share information on permits that may raise issues regarding impacts to threatened or endangered species or designated critical habitat.

3. If the Services or EPA are concerned that an NPDES permit is likely to have a more than minor detrimental effect on a Federally-listed species or critical habitat, the Service or EPA will contact the appropriate State or Tribal agency (preferably within 10 days of receipt of a notice of a draft State or Tribal permit) to discuss identified concerns. The Services or EPA will provide appropriate information in support of identified concerns. The Services and EPA will provide copies to each other of comments made to States or Tribes on issues related to Federally-listed species.

4. If unable to resolve identified issue(s) with the State or Tribe, the Services will contact the appropriate EPA Regional Branch not later than five working days prior to the close of the public comment period on the State's or Tribe's draft NPDES permit. Telephone contacts should be followed by written documentation of the discussion with EPA and include or reference any relevant supporting information.

5. If contacted by the Services, EPA will coordinate with the Services and the State or Tribe to ensure that the permit will comply with all applicable CWA requirements, including State or Tribal water quality standards, which include narrative criteria prohibiting

toxic discharges, and will discuss appropriate measures protective of Federally-listed species and critical habitat.

6. EPA may make a formal objection, where consistent with its CWA authority, or take other appropriate action, where EPA finds that a State or Tribal NPDES permit will likely have more than minor detrimental effect on Federally-listed species or critical habitat.

For those NPDES permits with detrimental effects on Federally-listed species or critical habitat that are minor, it is the intention of the Services and EPA that the Services will work with the State or Tribe to reduce the detrimental effects stemming from the permit. For those NPDES permits that have detrimental effects on Federally-listed species or critical habitat that are more than minor, including circumstances where the discharge fails to ensure the protection and propagation of fish, shellfish and wildlife, and where the State or Tribe and the Services are unable to resolve the issues, it is the intention of the Services and EPA that EPA would work with the State or Tribe to remove or reduce the detrimental impacts of the permit, including, in appropriate cases, by objecting to and Federalizing the permit where consistent with EPA's CWA authority.

EPA will use the full extent of its CWA authority to object to a State or Tribal permit where EPA finds (taking into account all available information, including any analysis conducted by the Services) that a State or Tribal permit is likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat.

Note: EPA may review or waive review of draft State or Tribal NPDES permits (40 CFR 123.24(d)). EPA will work with the Services through the local/regional coordinating teams to help determine which categories of permits should be reviewed for endangered species concerns. If EPA finds that a draft permit has a reasonable potential to have more than a minor detrimental effect on listed species or critical habitat, and review of a draft permit has been waived, EPA will withdraw this waiver during the public comment period (see 40 CFR 123.24(e)(1)).

7. If EPA objects to a NPDES permit under paragraph 6 above, EPA will follow the permit objection procedures outlined in 40 CFR 123.44 and coordinate with the Services in seeking to have the State or Tribe revise its permit. A State or Tribe may not issue a permit over an outstanding EPA objection. If EPA assumes permit issuing authority for a NPDES permit, EPA will consult with the Service prior

to issuance of the permit (as a Federal action) as appropriate under section 7 of the ESA.

8. In the case of State or Tribal permits that have already been issued, if the Services identify a permitted action which is likely to have a more than minor detrimental effect on Federally-listed species or critical habitat, then the Services will contact the State or Tribe to seek to remedy the situation. EPA will provide support and assistance to the Services in working with the State or Tribe. Although EPA may, at the time of permit issuance, object to and assume permit-issuing authority for draft NPDES permits, EPA has no authority to require changes to an already-issued State or Tribal permit. EPA or the Services could request that the State or Tribe use State or Tribal authority to reopen an issued permit if it is likely to have more than minor detrimental effects Federally-listed species or critical habitat.

9. EPA will encourage the State or Tribe to facilitate the involvement of permittees or permit applicants in this process.

B. Issuance of EPA Permits

EPA issuance of a permit is an action subject to section 7 consultation if it may affect listed species or critical habitat. EPA will meet ESA requirements as provided in 40 CFR 122.49(c) and 50 CFR part 402 on the issuance of individual and general NPDES permits. If consultation has been completed on State or Tribal water quality standards and the NPDES permit conforms with those standards, then any ESA section 7 review process should be simplified.

EPA will assure that all permits ensure the attainment and maintenance of State or Tribal water quality standards, including those that have been the subject of consultation or have been determined to have "no effect" on listed species and critical habitat.

EPA and the Services agree to coordinate as follows in the review of EPA-issued permits.

1. The Services will provide to EPA, when requested, information regarding the presence of Federally-listed species, critical habitat, proposed species and proposed critical habitat, including species lists, maps, and other relevant information.

2. EPA will review permit applications and other available information (including that previously provided by the Services) to determine if issuance of a permit may affect any Federally-listed species or critical habitat. If EPA makes a "no effect" finding, EPA will document this

determination in the permit record before public notice. During the 30-day public comment period, the Services may submit comments on EPA's determination. The Services may request initiation of consultation on Federally-listed species or critical habitat or conference on proposed species if it believes the proposed action may affect listed species or is likely to jeopardize the continued existence of a species proposed for listing or result in the destruction or adverse modification of proposed designated critical habitat.

3. If EPA determines that the permitted action may affect Federally-listed species or critical habitat, EPA will initiate either informal or formal consultation. If EPA determines that the permitted action is likely to jeopardize proposed species or adversely modify proposed critical habitat, a conference will be initiated.

4. In consultations involving permits, any reasonable and prudent measures (associated with an incidental take statement) will specify the measures considered necessary or appropriate to minimize takings. The Services will describe such measures. EPA may delegate the terms and conditions of the incidental take statement to permittees. The Services will rely on EPA to retain the responsibility to ensure the terms and conditions are carried out. This approach will be reflected in the Services' incidental take statements. Monitoring reports to ensure implementation of reasonable and prudent measures and terms and conditions will be made available to the Services by EPA in accordance with the terms of the incidental take statement.

Reasonable and prudent measures and terms and conditions should be developed in close coordination with the EPA to ensure that the measures are reasonable, that they cause only minor changes to the proposed action, and that they are within the legal authority and jurisdiction of the Agency to carry out. If the Services and EPA cannot reach agreement on appropriate reasonable and prudent measures or terms and conditions at the level the consultation is being conducted, the decision can be

elevated by the procedures discussed in section V.A.

5. EPA will facilitate the involvement of permittees or permit applicants in this process.

C. Watershed Planning

Whenever feasible and appropriate, the Services will participate early on in watershed planning processes. The active participation of the Services as a core stakeholder in the development of watershed or basin plans should reduce or eliminate the need for, or facilitate, consultation on EPA-issued permits and coordination on individual State or Tribal NPDES permits and other site-specific actions that are contemplated in watershed plans. Such participation should save the States, Tribes, EPA and Services time and resources while improving protection and recovery efforts for both listed and unlisted species.

X. Support in Administrative and Judicial Proceedings

The Services agree to provide support when requested by EPA in defense of any requirements or actions adopted by EPA as a consequence of reasonable and prudent alternatives, measures or conservation recommendations rendered in biological opinions, or reasonable and prudent measures provided in incidental take statements. Such support in administrative and judicial proceedings will be subject to approval by the Department of the Interior's Office of the Solicitor or NOAA General Counsel's Office and EPA's General Counsel's Office.

XI. Revisions to Agreement

EPA and the Services may jointly revise this document.

XII. Reservation of Agency Positions

No party to this Agreement waives any administrative claims, positions, or interpretations it may have with respect to the applicability or the enforceability of the ESA or the CWA.

XIII. Obligation of Funds, Commitment of Resources

Nothing in this Agreement shall be construed as obligating any of the parties to the expenditure of funds in excess of appropriations authorized by law or otherwise commit any of the agencies to actions for which it lacks statutory authority. It is understood that the level of resources to be expended under this Agreement will be consistent with the level of resources available to the agencies to support such efforts.

XIV. Nature of Agreement

This memorandum is intended only to improve the internal management of EPA and the Services and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

XV. Effective Date; Termination

This memorandum will become effective upon signature by each of the parties hereto. Any of the parties may withdraw from this Agreement upon 60 days written notice to the other parties; provided that any section 7 consultation covered by the terms of this Agreement that is pending at the time notice of withdrawal is identified by the parties, and those activities covered by this Agreement that begin the consultation process prior to and within the 60-day notice period, will continue to be covered by the terms of this Agreement.

XVI. Signatures

Dated: January 10, 2001.

J. Charles Fox,
*Assistant Administrator for Water, U.S.
Environmental Protection Agency.*

Dated: January 17, 2001.

Jamie Rappaport Clark,
Director, U.S. Fish and Wildlife Service.

Dated: January 18, 2001.

Penelope D. Dalton,
*Assistant Administrator for Fisheries,
National Oceanic and Atmospheric
Administration.*

[FR Doc. 01-2170 Filed 2-21-01; 8:45 am]

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Federal Register

**Thursday,
February 22, 2001**

Part III

The President

Executive Order 13201—Notification of Employee Rights Concerning Payment of Union Dues or Fees

Executive Order 13202—Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects

Executive Order 13203—Revocation of Executive Order and Presidential Memorandum Concerning Labor-Management Partnerships

Executive Order 13204—Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts

Presidential Documents

Title 3—

Executive Order 13201 of February 17, 2001

The President

Notification of Employee Rights Concerning Payment of Union Dues or Fees

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 *et seq.*, and in order to ensure the economical and efficient administration and completion of Government contracts, it is hereby ordered that:

Section 1. (a) This order is designed to promote economy and efficiency in Government procurement. When workers are better informed of their rights, including their rights under the Federal labor laws, their productivity is enhanced. The availability of such a workforce from which the United States may draw facilitates the efficient and economical completion of its procurement contracts.

(b) The Secretary of Labor (Secretary) shall be responsible for the administration and enforcement of this order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of this order.

Sec. 2. (a) Except in contracts exempted in accordance with section 3 of this order, all Government contracting departments and agencies shall, to the extent consistent with law, include the following provisions in every Government contract, other than collective bargaining agreements as defined in 5 U.S.C. 7103(a)(8) and purchases under the “Simplified Acquisition Threshold” as defined in the Office of Federal Procurement Policy Act (41 U.S.C. 403).

“1. During the term of this contract, the contractor agrees to post a notice, of such size and in such form as the Secretary of Labor shall prescribe, in conspicuous places in and about its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the last sentence shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)):

“NOTICE TO EMPLOYEES

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

“If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

“For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address:

National Labor Relations Board

Division of Information

1099 14th Street, N.W.

Washington, D.C. 20570

“To locate the nearest NLRB office, see NLRB’s website at www.nlr.gov.”

“2. The contractor will comply with all provisions of Executive Order 13201 of February 17, 2001, and related rules, regulations, and orders of the Secretary of Labor.

“3. In the event that the contractor does not comply with any of the requirements set forth in paragraphs (1) or (2) above, this contract may be cancelled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in or adopted pursuant to Executive Order 13201 of February 17, 2001. Such other sanctions or remedies may be imposed as are provided in Executive Order 13201 of February 17, 2001, or by rule, regulation, or order of the Secretary of Labor, or as are otherwise provided by law.

“4. The contractor will include the provisions of paragraphs (1) through (3) herein in every subcontract or purchase order entered into in connection with this contract unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13201 of February 17, 2001, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any such subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for non compliance: Provided, however, that if the contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

(b) Whenever, through Acts of Congress or through clarification of existing law by the courts or otherwise, it appears that contractual provisions other than, or in addition to, those set out in subsection (a) of this section are needed to inform employees fully and accurately of their rights with respect to union dues, union-security agreements, or the like, the Secretary shall promptly issue such rules, regulations, or orders as are needed to cause the substitution or addition of appropriate contractual provisions in Government contracts thereafter entered into.

Sec. 3. (a) The Secretary may, if the Secretary finds that special circumstances require an exemption in order to serve the national interest, exempt a contracting department or agency from the requirements of any or all of the provisions of section 2 of this order with respect to a particular contract, subcontract, or purchase order.

(b) The Secretary may, by rule, regulation, or order, exempt from the provisions of section 2 of this order certain classes of contracts to the extent that they involve (i) work outside the United States and do not involve the recruitment or employment of workers within the United States; (ii) work in jurisdictions where State law forbids enforcement of union-security agreements; (iii) work at sites where the notice to employees described in section 2(a) of this order would be unnecessary because the employees are not represented by a union; (iv) numbers of workers below appropriate thresholds set by the Secretary; or (v) subcontracts below an appropriate tier set by the Secretary.

(c) The Secretary may provide, by rule, regulation, or order, for the exemption of facilities of a contractor, subcontractor, or vendor that are in all

respects separate and distinct from activities related to the performance of the contract: Provided, that such exemption will not interfere with or impede the effectuation of the purposes of this order: And provided further, that in the absence of such an exemption all facilities shall be covered by the provisions of this order.

Sec. 4. (a) The Secretary may investigate any Government contractor, subcontractor, or vendor to determine whether the contractual provisions required by section 2 of this order have been violated. Such investigations shall be conducted in accordance with procedures established by the Secretary.

(b) The Secretary shall receive and investigate complaints by employees of a Government contractor, subcontractor, or vendor where such complaints allege a failure to perform or a violation of the contractual provisions required by section 2 of this order.

Sec. 5. (a) The Secretary, or any agency or officer in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, regarding compliance with this order as the Secretary may deem advisable.

(b) The Secretary may hold hearings, or cause hearings to be held, in accordance with subsection (a) of this section prior to imposing, ordering, or recommending the imposition of sanctions under this order. Neither an order for debarment of any contractor from further Government contracts under section 6(b) of this order nor the inclusion of a contractor on a published list of noncomplying contractors under section 6(c) of this order shall be carried out without affording the contractor an opportunity for a hearing.

Sec. 6. In accordance with such rules, regulations, or orders as the Secretary may issue or adopt, the Secretary may:

(a) after consulting with the contracting department or agency, direct that department or agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor to comply with the contractual provisions required by section 2 of this order; contracts may be cancelled, terminated, or suspended absolutely, or continuance of contracts may be conditioned upon future compliance: Provided, that before issuing a directive under this subsection, the Secretary shall provide the head of the contracting department or agency an opportunity to offer written objections to the issuance of such a directive, which objections shall include a complete statement of reasons for the objections, among which reasons shall be a finding that completion of the contract is essential to the agency's mission: And provided further, that no directive shall be issued by the Secretary under this subsection so long as the head of the contracting department or agency continues personally to object to the issuance of such directive;

(b) after consulting with each affected contracting department or agency, provide that one or more contracting departments or agencies shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary that such contractor has complied with and will carry out the provisions of this order: Provided, that before issuing a directive under this subsection, the Secretary shall provide the head of each contracting department or agency an opportunity to offer written objections to the issuance of such a directive, which objections shall include a complete statement of reasons for the objections, among which reasons shall be a finding that further contracts or extensions or other modifications of existing contracts with the noncomplying contractor are essential to the agency's mission: And provided further, that no directive shall be issued by the Secretary under this subsection so long as the head of a contracting department or agency continues personally to object to the issuance of such directive; and

(c) publish, or cause to be published, the names of contractors that have, in the judgment of the Secretary, failed to comply with the provisions of this order or of related rules, regulations, and orders of the Secretary.

Sec. 7. Whenever the Secretary invokes section 6(a) or 6(b) of this order, the contracting department or agency shall report the results of the action it has taken to the Secretary within such time as the Secretary shall specify.

Sec. 8. Each contracting department and agency shall cooperate with the Secretary and provide such information and assistance as the Secretary may require in the performance of the Secretary's functions under this order.

Sec. 9. The Secretary may delegate any function or duty of the Secretary under this order to any officer in the Department of Labor or to any other officer in the executive branch of the Government, with the consent of the head of the department or agency in which that officer serves.

Sec. 10. The Federal Acquisition Regulatory Council (FAR Council) shall take whatever action is required to implement in the Federal Acquisition Regulation (FAR) the provisions of this order and of any related rules, regulations, or orders of the Secretary that were issued to implement this Executive Order. The FAR Council shall amend the FAR to require each solicitation of offers for a contract to include a provision that implements section 2 of this order.

Sec. 11. As it relates to notification of employee rights concerning payment of union dues or fees, Executive Order 12836 of February 1, 1993, which, among other things, revoked Executive Order 12800 of April 13, 1992, is revoked.

Sec. 12. The heads of executive departments and agencies shall revoke expeditiously any orders, rules, regulations, guidelines, or policies implementing or enforcing Executive Order 12836 of February 1, 1993, as it relates to notification of employee rights concerning payment of union dues or fees, to the extent consistent with law.

Sec. 13. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it, create any right to administrative or judicial review, or any right, whether substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 14. The provisions of this order shall apply to contracts resulting from solicitations issued on or after the effective date of this order.

Sec. 15. This order shall become effective 60 days after the date of this order.



THE WHITE HOUSE,
February 17, 2001.

Presidential Documents

Executive Order 13202 of February 17, 2001

Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 *et seq.*, and in order to (1) promote and ensure open competition on Federal and federally funded or assisted construction projects; (2) maintain Government neutrality towards Government contractors' labor relations on Federal and federally funded or assisted construction projects; (3) reduce construction costs to the Federal Government and to the taxpayers; (4) expand job opportunities, especially for small and disadvantaged businesses; and (5) prevent discrimination against Government contractors or their employees based upon labor affiliation or lack thereof; thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects, it is hereby ordered that:

Section 1. To the extent permitted by law, any executive agency awarding any construction contract after the date of this order, or obligating funds pursuant to such a contract, shall ensure that neither the awarding Government authority nor any construction manager acting on behalf of the Government shall, in its bid specifications, project agreements, or other controlling documents:

(a) Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or

(b) Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).

(c) Nothing in this section shall prohibit contractors or subcontractors from voluntarily entering into agreements described in subsection (a).

Sec. 2. Contracts awarded before the date of this order, and subcontracts awarded pursuant to such contracts, whenever awarded, shall not be governed by this order.

Sec. 3. To the extent permitted by law, any executive agency issuing grants, providing financial assistance, or entering into cooperative agreements for construction projects, shall ensure that neither the bid specifications, project agreements, nor other controlling documents for construction contracts awarded after the date of this order by recipients of grants or financial assistance or by parties to cooperative agreements, nor those of any construction manager acting on their behalf, shall contain any of the requirements or prohibitions set forth in section 1(a) or (b) of this order.

Sec. 4. In the event that an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of the foregoing, performs in a manner contrary to the provisions of sections 1 or 3 of this order, the executive agency awarding the contract, grant, or assistance shall take such action, consistent with law and regulation, as the agency determines may be appropriate.

Sec. 5. (a) The head of an executive agency may exempt a particular project, contract, subcontract, grant, or cooperative agreement from the requirements of any or all of the provisions of sections 1 and 3 of this order, if the agency head finds that special circumstances require an exemption in order to avert an imminent threat to public health or safety or to serve the national security.

(b) A finding of “special circumstances” under section 5(a) may not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization.

Sec. 6. (a) The term “construction contract” as used in this order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The term “executive agency” as used in this order shall have the same meaning it has in 5 U.S.C. 105, excluding the General Accounting Office.

(c) The term “labor organization” as used in this order shall have the same meaning it has in 42 U.S.C. 2000e(d).

Sec. 7. With respect to Federal contracts, within 60 days of the issuance of this order, the Federal Acquisition Regulatory Council shall take whatever action is required to amend the Federal Acquisition Regulation in order to implement the provisions of this order.

Sec. 8. As it relates to project agreements, Executive Order 12836 of February 1, 1993, which, among other things, revoked Executive Order 12818 of October 23, 1992, is revoked.

Sec. 9. The Presidential Memorandum of June 5, 1997, entitled “Use of Project Labor Agreements for Federal Construction Projects” (the “Memorandum”), is also revoked.

Sec. 10. The heads of executive departments and agencies shall revoke expeditiously any orders, rules, regulations, guidelines, or policies implementing or enforcing the Memorandum or Executive Order 12836 of February 1, 1993, as it relates to project agreements, to the extent consistent with law.

Sec. 11. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it, create any right to administrative or judicial review, or any right, whether substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
February 17, 2001

Presidential Documents

Executive Order 13203 of February 17, 2001

Revocation of Executive Order and Presidential Memorandum Concerning Labor-Management Partnerships

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered that:

Section 1. Executive Order 12871 of October 1, 1993, as amended by Executive Orders 12983 and 13156, which established the National Partnership Council and requires Federal agencies to form labor-management partnerships for management purposes, is revoked. Among other things, therefore, the National Partnership Council is immediately dissolved.

Sec. 2. The Presidential Memorandum of October 28, 1999, entitled "Reaffirmation of Executive Order 12871—Labor-Management Partnerships" (the "Memorandum"), which reaffirms and expands upon the requirements of Executive Order 12871 of October 1, 1993, is also revoked.

Sec. 3. The Director of the Office of Personnel Management and heads of executive agencies shall promptly move to rescind any orders, rules, regulations, guidelines, or policies implementing or enforcing Executive Order 12871 of October 1, 1993, or the Memorandum, to the extent consistent with law.

Sec. 4. Nothing in this order shall abrogate any collective bargaining agreements in effect on the date of this order.



THE WHITE HOUSE,
February 17, 2001.

Presidential Documents

Executive Order 13204 of February 17, 2001

Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered that:

Section 1. Executive Order 12933 of October 20, 1994, which requires, with respect to contracts for public buildings, that successive contractors offer a right of first refusal of employment to employees of the prior contractor, is revoked.

Sec. 2. The Secretary of Labor (Secretary), the Federal Acquisition Regulatory Council, and heads of executive agencies shall promptly move to rescind any orders, rules, regulations, guidelines, or policies implementing or enforcing Executive Order 12933 of October 20, 1994, to the extent consistent with law.

Sec. 3. The Secretary shall terminate, effective today, any investigations or other compliance actions based on Executive Order 12933 of October 20, 1994.



THE WHITE HOUSE,
February 17, 2001.

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REMINDERS

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.

RULES GOING INTO EFFECT FEBRUARY 22, 2001**COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration**

Fishery conservation and management:

- West Coast States and Western Pacific fisheries—
- Pacific mackerel; published 2-22-01
- Western Pacific pelagic; published 2-22-01

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities: Pendimethalin; published 2-22-01

FEDERAL COMMUNICATIONS COMMISSION

Frequency allocations and radio treaty matters: 33-36 GHz for Federal government use; published 2-22-01
50.2-50.4 and 51.4-71.0 realignment; published 1-23-01
Radio services, special: Fixed microwave services— 24 GHz service; licensing and operation; published 2-22-01

TRANSPORTATION DEPARTMENT**Federal Aviation Administration**

Airworthiness directives: Airbus; published 1-18-01
British Aerospace (Jetstream); published 1-18-01
Dassault; published 1-18-01

COMMENTS DUE NEXT WEEK**AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Reports and guidance documents; availability, etc.: Commodity research and promotion program;

agency oversight guidelines; comment request; comments due by 2-28-01; published 11-30-00

AGRICULTURE DEPARTMENT**Animal and Plant Health Inspection Service**

Exportation and importation of animals and animal products:

- Beef, fresh, chilled, or frozen from Argentina, certification; foot-and-mouth disease; comments due by 2-27-01; published 12-29-00

AGRICULTURE DEPARTMENT**Grain Inspection, Packers and Stockyards Administration**

Reports and guidance documents; availability, etc.: Commodity research and promotion programs; agency oversight guidelines; comment request; comments due by 2-28-01; published 11-30-00

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National Oceanic and Atmospheric Administration**

Fishery conservation and management: Caribbean, Gulf, and South Atlantic fisheries— South Atlantic snapper-grouper; comments due by 2-26-01; published 2-12-01
West Coast States and Western Pacific fisheries— Coral reef ecosystems; hearings; comments due by 2-26-01; published 1-10-01

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

- Commercial item acquisitions; contract types; comments due by 2-27-01; published 12-29-00
- High-technology workers; signing and retention; comments due by 2-26-01; published 12-28-00

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- Test methods for evaluating solid waste, physical/chemical methods; third edition update; comments due by 2-26-01; published 11-27-00

Zinc fertilizers made from recycled hazardous secondary materials; definition; conditions for exclusion; comments due by 2-26-01; published 11-28-00

Water pollution; effluent guidelines for point source categories:

- Iron and steel manufacturing facilities; comments due by 2-26-01; published 12-27-00

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Common carrier services:

- Federal-State Joint Board on Universal Service— Rural universal service support mechanism; reform plan; comments due by 2-26-01; published 1-26-01

Non-price cap incumbent local exchange and interexchange carriers; Multi-Association Group plan for interstate services regulation; rulemaking petition; comments due by 2-26-01; published 1-25-01

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- Wireline services offering advanced telecommunications capability; deployment and local competition provisions; comments due by 2-27-01; published 2-6-01

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- Georgia; comments due by 2-26-01; published 1-11-01
- North Carolina; comments due by 2-26-01; published 1-11-01

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- Louisiana; comments due by 3-2-01; published 1-11-01

FEDERAL RESERVE SYSTEM

Bank holding companies and change in bank control (Regulation Y):

- Financial subsidiaries; comments due by 3-2-01; published 1-3-01

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- Commercial item acquisitions; contract types; comments due by

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Centers for Disease Control and Prevention**

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- Federal National Mortgage Association and Federal Home Loan Mortgage Corporation— Civil money penalties, etc.; comments due by 2-26-01; published 12-27-00

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- Various plants from Molokai, HI; comments due by 2-27-01; published 12-29-00

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**INTERIOR DEPARTMENT
Minerals Management
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**Federal Aviation
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LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. This list is

also available online at <http://www.nara.gov/fedreg>.

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H.J. Res. 7/P.L. 107-1

Recognizing the 90th birthday of Ronald Reagan. (Feb. 15, 2001; 115 Stat. 3)

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